

M. TVLLI CICERONIS

PRO

T. ANNIO MILONE

AD IVDICES ORATIO

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T. ANNIO MILONE
AD IVDICES ORATIO

EDITED FOR SCHOOLS AND COLLEGES

BY

JAMES S. REID, LITT.D.,

FELLOW AND TUTOR OF GONVILLE AND CAIUS COLLEGE, CAMBRIDGE; HON. LITT.D. DUBLIN.

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PREFATORY NOTE.

THE edition of the "Pro Milone" by Mr Purton, which the Syndics of the Cambridge University Press published in 1853, has been justly valued by students for forty years. But scholarship has made, in the field of Ciceronian criticism, as in other fields, considerable advance since the time of its publication. Hence the present edition, the plan of which is in the main the same as that of other editions prepared by me for the Pitt Press Series. The only recent recensions of the text accompanied by explanatory notes which I have consulted are Halm's (ed. IX. revised by Laubmann) and Richter's (ed. IV. revised by Eberhard and Nohl). When I had nearly completed my notes, I heard of the appearance of more than one English edition. My interest in the speech naturally leads me to rejoice that, after so long a period, it should again receive attention from English scholars. But I am

sorry that my work should seem to compete with that of others, and I thought it only just to them that I should refrain from using their results.

The plan of the work has required me to avoid debate at most points, and to study compression, but I trust that the work will be found to be fairly complete for the purposes of the student.

JAMES S. REID.

GONVILLE AND CAIUS COLLEGE,
CAMBRIDGE,
4 *January*, 1894.

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INTRODUCTION.

1. The trial to which this speech refers took place in April of the year 52 B.C.[1] The case was an outcome of the civil disorder which never ceased to afflict the burgesses of Rome from the era of the Gracchi until Augustus seated himself firmly on the imperial throne. During this century of strife the streets of the capital were frequently deluged with blood. It has been said, with exaggeration, but not without a tinge of truth, that if the city had possessed an efficient police, the fall of the Republic might have been considerably delayed.

2. The trial concerned the death of the notorious Clodius, the bitter foe of Cicero, whom he drove into exile, while the orator owed his recall mainly to the exertions of Milo the defendant. Cicero was therefore drawn into the case by hatred on the one hand and gratitude on the other. The enmity between Clodius and Cicero began nine years before this trial took place. In December of the year 62, the festival of the "good goddess" (*Bona Dea*) was being celebrated at the house of Julius Caesar by Roman ladies, who alone were permitted to assist at the rite, when Clodius was detected among them, dressed in female attire[2]. He was arraigned for the foul impiety, but brought

[1] The ancient authorities (other than Cicero's speech itself) for all that concerns the trial of Milo are mainly these; (*a*) Cicero's letters and other speeches delivered near the same time; (*b*) Plutarch's lives of eminent Romans of the period; (*c*) the history of Dio Cassius; (*d*) the explanations given of the speech by Q. Asconius Pedianus, a most diligent and trustworthy inquirer, who wrote about 55 A.D. The text of Asconius is given in Appendix A.

[2] The ceremony was bound to take place in the house of a magistrate invested with the *imperium*, i.e., at this period, one who was either consul or praetor. Caesar was praetor at the time.

evidence to prove that at the time when the offence was alleged to have been committed, he was far away at Interamna, a town close to the meeting-place of the rivers Nar and Tiber[1]. Cicero swore that he had met Clodius in Rome at an hour which made his pretended visit to Interamna impossible. From that moment till his death Clodius pursued Cicero with unrelenting animosity, and in 58 used his power as turbulent tribune to procure the passing of a statute whereby the orator was driven into exile, on the ground that he had put some of Catiline's accomplices to death without trial.

3. Milo was tribune for the year 57. Of his career before that date little is known. His original family was that of the Papii, but his maternal grandfather Annius adopted him as a son, and bestowed on him his name and the succession to his property. Milo opened a campaign against Clodius by an attempt to prosecute him for illegal violence[2]. When law failed, recourse was had to force. Milo enrolled a band of gladiators for which the host of Clodius was no match[3]. The most sanguinary conflicts took place. After one fight, the dead were piled in huge heaps in the forum, and the Tiber was choked with corpses[4]. The law for restoring Cicero was passed on Aug. 4, but the turbulence and bloodshed still continued. Clodius stood for the aedileship, and Milo obstructed the business of the election, which was not concluded till Jan. 20 in the year 56[5]. An unsuccessful effort was at once made by the new aedile to rid himself of his rival by getting sentence against him for the use of violence[6]. The struggles between the two continued for three years more, when Clodius was removed by the sword. During this time Cicero suffered much from Clodius and was indeed sometimes in personal danger[7]. He owed everything to the protection of

[1] See § 46.

[2] See § 39, l. 8 n.

[3] This step had the sanction of Pompey. Plutarch, Pomp. 49, speaks as though Pompey took command of the gladiators of Milo and Sestius.

[4] *Pro Sest.* § 77.

[5] Cic. Ad Qu. Fr. 2, 2, 2.

[6] The trial was conducted not in a standing court (quaestio) but before the whole people in *comitia* assembled. It was ultimately abandoned by Clodius before a decision was given.

[7] § 37; Ascon. 48.

Milo and one or two other friends who had adopted the policy of meeting force by force. On one occasion Mark Antony, the future triumvir, nearly succeeded in killing Clodius[1].

4. Doubtless at some time in the interval Milo held the office of praetor, but no record of his tenure has been preserved. During the latter half of the year 53 there were three candidates who carried on a furious competition for the office of consul[2]. These were Milo, P. Plautius Hypsaeus, one of Pompey's officers during the third Mithridatic war[3], and Q. Metellus Scipio Nasica, father-in-law of Pompey, who married his daughter after the death of Caesar's daughter Julia[4]. Pompey had been a friend and political ally of Milo, but he threw all his influence into the scale in favour of Scipio and Plautius, who were united in their candidature[5]. Clodius, now on good terms with Pompey, strove strenuously in the same cause. He was himself a candidate for the praetorship, and would have found it intolerable to hold the office with Milo in the consul's chair. Money was freely lavished and blood was freely shed in the course of the struggle. Such was the terror and disorder that the elections could not be carried through. Milo's bribery, direct and indirect, had been on a magnificent scale[6], and had won the favour of the people; the delay was mainly due to his opponents[7].

5. The first day of the year 52 arrived, and there were no ordinary magistrates to take the place of those who had gone out of office. On Dec. 10 preceding, new tribunes of the plebs had begun their year, and in the absence of the executive officers of state, held a position of more than usual importance; in particular, meetings of the senate could only be held under their presidency. According to ancient rule, the political arrangement which was called the *interregnum* should have ensued. The method by which the first *interrex* was appointed is in some respects uncertain. In the first place a decree of the senate was

[1] § 40.
[2] Ascon. 31.
[3] Ascon. 36; Cic. Flacc. 20.
[4] Cornelia was Pompey's fifth wife. Her father was adopted by Q. Metellus Pius, the son of that Metellus who went into exile, rather than swear obedience to the agrarian law of Saturninus.
[5] §§ 24 sq.; Ascon. 31.
[6] § 95.
[7] §§ 25, 96.

passed "de patriciis convocandis." What is here meant by *patricii* is not exactly known; but these *patricii* nominated the first *interrex*, who, like his successors, was bound to be chosen from one of the ancient patrician families. The first *interrex* could not summon the *comitia*, but at the end of five days nominated another, who similarly nominated another, and so on, until the elections of ordinary magistrates had been brought about, when the *interregnum* ceased. In this year 52 the preliminary decree of the senate was obstructed[1]. Excited public meetings were held by the tribunes, who were divided in their political sympathies. The chaos continued till the 18th of January[2]. On that day Milo attended a meeting of the senate, which broke up about 10 or 11 in the morning. Soon after this hour he started for Lanuvium. This was his native town, and he held at the time its chief magistracy, with the title of dictator. It was his duty to perform an annual sacrifice there and to induct a priest into office.

6. At this period all the Italian roads were unsafe, and no Roman of distinction travelled without a strong escort. Milo was attended by a company of gladiators, two of whom, Eudamus and Birria, had distinguished themselves in the amphitheatre. But Milo's train, which comprised about 300 followers in all, was largely composed of unwarlike persons, such as women-servants and singing boys, who were to take part in the religious ceremony. Milo himself rode in a large carriage (*raeda*) with his wife Fausta (the daughter of the great Sulla) and a friend, M. Fufius. As luck would have it, Clodius was on the same road at the same time, returning from Aricia, where he had made a speech to the senate of the town[3]. With him were about 30 lightly equipped slaves; Clodius himself was on horseback, with three companions,

[1] By the tribune T. Munatius Plancus Bursa, who acted at the instigation of Pompey; see Ascon. 32. There had been long *interregna* in the years 55 and 53. In the latter year the interregnum lasted from Jan. 1 to some time in July.

[2] § 27; Ascon. 32. The date is given by Cicero himself (§ 27) as a.d. XIII Kal. Feb. Before Julius Caesar reformed the Calendar, January had only 29 days; hence the date is Jan. 18.

[3] Clodius had left Rome the day before Milo (§ 27).

C. Causinius Schola, a Roman knight, and two men of lower rank, P. Pomponius and C. Clodius. The two companies of travellers met close to Bovillae, on the further side from Rome, near by a shrine of that very Bona Dea whose mysteries Clodius had outraged[1]. It is of considerable importance for a judgment about the trial to determine the hour of meeting. Asconius, a careful writer, who made patient inquiry into the facts, and wrote less than a century after the events, fixes the time at about two o'clock in the afternoon. It suits Cicero in his speech to insinuate that the hour was considerably later[2].

7. The two parties were passing peaceably and were almost clear of each other when a quarrel began between some of Milo's slaves, and some of those on the other side[3]. Clodius turned round with a threatening gesture; Birria at once wounded him in the shoulder with a sword, and he was carried by his friends into a wayside inn. Milo, foreseeing that the mischance would be turned to account against him in any case, promptly decided to take what benefit he could, by making an end of his enemy. Clodius was, by his orders, hounded out of the tavern, and despatched with many wounds. The innkeeper and some slaves were murdered; the rest fled and left their master's corpse lying on the road. At last a senator came by, S. Tedius by name, and ordered it to be carried to Rome in his own travelling-chair (*lectica*). Thus ended what Cicero called "the battle of Bovillae[4]."

[1] Bovillae was nearly 12 English miles from the city. Ruins of the ancient town are still visible. The scene of the encounter between Milo and Clodius is supposed to have been close to le Frattochie, the point at which the modern road from Rome to Albano joins the ancient Appian way.

[2] § 29 hora fere undecima aut non multo secus; but Ascon. 32 says "circa horam nonam."

[3] Ascon. flatly contradicts Cicero, who makes the actual violence begin with the murder of Milo's coachman (*raedarius*) by the followers of Clodius (§ 29), and insinuates that no provocation had been given on Milo's side. The rest of the story is told in very different ways by the two. The account of Asconius is given above.

[4] Att. 5, 13, 1 Ephesum venimus a.d. XI. Kal. Sext. sexagesimo et quingentesimo post pugnam Bovillanam. Writing to Atticus later (6, 1, 26) he dates his letter on the 765th day after the "battle of Leuctra" (post Leuctricam pugnam). These expressions show how great was the burden which was lifted from Cicero's life by the

He and all who had retained any preference for orderly government rejoiced at the removal of an intolerable pest. But the manner of it was so cruel and cold-blooded as to arouse strong indignation even among those who bore Clodius no affection.

8. The body arrived in Rome before nightfall, and was taken to the house of Clodius on the Palatine hill, close by the forum. Fulvia, the widow, displayed it, in all its piteous plight, in the hall of the dwelling, whither crowds thronged to gaze upon it. The excitement grew stronger on the following day. A huge mob assembled before the house, led by a few well-known men, among them two tribunes who were determined opponents of Milo, T. Munatius Plancus, and Q. Pompeius Rufus, a grandson of the great Sulla, and therefore a nephew of Milo's wife. These instigated the crowd to carry the corpse, scantily clothed, and still covered with mud and blood, into the forum. Here fiery harangues against Milo were delivered. Then Sextus Clodius, a clerk in the civil service (*scriba*), induced the people to carry the dead man into the senate-house, which was hard by[1]. An extempore funeral pyre was built up of benches, tables, books and wood obtained by the destruction of the *tribunalia* or raised platforms whereon the official chairs of the magistrates were placed when they conducted business in the forum. The senate-house was burned down, and the Basilica Porcia next it, originally built by Cato the Censor, received damage from the fire. A somewhat similar and still more famous scene was enacted near the same spot eight years later when the body of the mighty Caesar was burned in the same tumultuous fashion.

9. Meanwhile M. Lepidus had been nominated *interrex*[2]. His house was now attacked by the mob, apparently because he did not at once summon the Comitia to elect consuls, a thing which the first *interrex* had no authority to do. Milo's mansion was also assailed. The disorder went on day by day.

death of his enemy. The name Κρωτωνιάτης τυραννοκτόνος given to Milo, in allusion to Milo's famous namesake of Croton (Att. 6, 4, 3), breathes the same spirit.

[1] *§ 90 shows clearly* that the body was burned *inside* the senate house. So Ascon. 34.

[2] Ascon. 43. This Lepidus was afterwards triumvir along with Octavian and Mark Antony.

On Jan. 26 the crowd gathered to celebrate the usual "ninth day feast" in honour of the dead (*cena novemdialis*)[1]. As the elections had not been held an attempt was made to force Plautius and Scipio to assume the consulship irregularly. The bundles of rods (*fasces*), which were the symbols of authority, were taken from the "grove of Libitina," where they were kept, and carried to the houses of Milo's two competitors. When this had no effect, a journey was made to Pompey's suburban villa. At this time Pompey was nominally governor of the Spanish provinces, and according to the custom of the constitution, would lose his command if he crossed the *pomoerium* and entered the city. A clamour was raised by the throng that he should make himself either consul or dictator, after the pattern of Sulla[2].

10. Milo finding that the disgust caused by the destruction of the senate-house seemed to be even greater than the indignation aroused by the assassination of Clodius, trusted to see a reaction in his favour. He therefore entered the capital on the day when the senate-house was burned, and proceeded with his candidature, which he supported by unstinted bribery. A friendly tribune, M. Caelius Rufus, called meetings (*contiones*) in his favour. The line taken was that Clodius had laid a trap for Milo and had been caught in it himself. The successive *interreges* found it impossible to carry the elections through in face of the opportunities which the constitution offered in abundance to obstructors. At last the senate passed a resolution addressed to the tribunes, to the *interrex* for the time being, and to Pompey, who were charged "to look to it that the interests of the nation took no harm[3]." The form of the decree was old, but the circumstances in which it was adopted were without parallel. From the time of the Gracchi

[1] Ascon. 34, who however does not distinguish the days on which the different events occurred. See Dio Cassius 40, 49, who speaks of the ἐνάτη (*cena novemdialis*).

[2] There had been repeated talk, earlier than this, about making Pompey dictator. See e.g. Cic. Ad Qu. Frat. 3, 8, 4.

[3] Ascon. 35, 51; Cic. Mil. §§ 61, 70. The so-called *senatus consultum ultimum*. See Appendix A in Heitland's edition of Cic. Pro Rabirio Perduellionis reo.

the senate had claimed the right, by this form of decree, to invest the consuls with absolute authority, and so to override the laws. The novelty in the present case was that there were no consuls in existence to receive this despotic commission. To grant the power to tribunes, an *interrex* and a proconsul was, in respect of form, a startling innovation. But the ship of state was in such a tempest that to steer her by precedent was impossible. The senate further directed Pompey to levy troops all over Italy. This measure seems larger than the occasion required. But the majority in the senate seized the opportunity to strengthen their half-hearted champion against his rival Caesar[1]. Pompey quickly enrolled a guard for his own protection and proceeded to raise his troops. But not until sixty days after the death of Clodius was an election effected[2]. Pompey was appointed consul without a colleague[3]. This event in itself sufficed to show that the old Republican constitution of Rome was near its death. It was a less striking illegality that Pompey should hold at one and the same time the authority of consul and that of a provincial governor, along with the command of an army.

11. During the interval between the "battle of Bovillae" and the election, Pompey had shown himself hostile to Milo, though, before the struggle for the consulship began, the two had been friends. Pompey refused to see Milo or even to communicate with him. Nay, more; in order to alienate support

[1] Ascon. 35 explicitly says that Pompey alone was to raise troops in Italy, and this agrees with Mil. § 61. The step taken by Caesar at this time (Bell. Gall. 7, 1) in enrolling soldiers throughout Gallia Cisalpina, was a measure of self-defence, and was not based on the *senatus consultum*, since the phrase *Italia* did not at the time include Gallia Cisalpina.

[2] Ascon. 37: V. Kal. Mart. mense intercalario. Before the reform of the Calendar by Julius Caesar, it was customary to insert, every other year, an extra month (*mensis intercalarius*) immediately after Feb. 23 or Feb. 24. The new month comprised (alternately) 22 or 23 days.

[3] The senate, in directing Pompey's election, stated that he might get a colleague elected, if he felt so inclined, but not till two months had elapsed after his own election (Plutarch, Pomp. 54). By Pompey's election the law that a man should not hold the same magistracy twice within the space of ten years was broken.

from Milo, he pretended to believe a story that Milo meant to assassinate him, and he even imparted the information to the public in a speech. Attacks on Milo continued to be made both in the forum and in the senate. At a meeting of the senate about Feb. 18 Metellus Scipio gave his version of the conflict at Bovillae, pointing out, among other matters, that while eleven men in the company of Clodius had been killed, Milo only had two men wounded; that Milo had tried to seize the young son of Clodius, and had cruelly tortured to death one slave at the country house of Clodius and had killed three others in cold blood; further that he had manumitted those slaves of his own who had been most active in the fray, that they might not be compelled to give evidence against him. Later, Pompey was asked to force Milo to give up these men and some slaves belonging to Fausta, that inquiry might be made of them by the rack[1]. The demand came from two members of the Claudian family, both called Appius (see below § 14).

12. Four days before March began Pompey assumed office. Two days later he demanded of the senate that they should sanction the passing of two new statutes, one dealing with bribery (*de ambitu*), the other with violence (*de vi*). The purpose of the latter was to set up a special court to try those concerned in the murder of Clodius, the burning of the senate-house, and the attack on the house of Lepidus the *interrex*[2]. Q. Hortensius, the great orator, who, like Cicero, was a strong partisan of Milo, moved a resolution that the three crimes which Pompey proposed to punish had been done to the detriment of the nation; further that the inquiry into the facts should take place under the ordinary law, but "extra ordinem apud quaesitorem"; that is to say, that a special president should be appointed for these cases, so that they might be judged speedily. A demand was made that the two parts of this motion should be put to the vote separately. This was done, and the first part, condemning the crimes, was accepted; but

[1] § 65; Ascon. 35, 36. [2] Ascon. 37.

the second part, calling for a trial under the ordinary law, was vetoed by two tribunes and so fell to the ground[1]. Pompey therefore proceeded to lay his two new bills before the people. It was in vain that Milo's friend Caelius Rufus declared the proposed law *de vi* to be unconstitutional, because a law of the Twelve Tables forbade statutes to be passed which were directed against particular persons[2]. A few years before, Cicero had made a similar fruitless appeal against the law by which he was driven into exile. Many wild rumours were afloat to Milo's harm. The most absurd was a story told by a freedman of Lepidus. When produced at a public meeting by Munatius Plancus, this man declared that, with three other free persons, he had come upon the scene while Clodius was being slain; that they had cried out against the villany; that they had been seized and imprisoned for two months in one of Milo's country houses. At one meeting of the senate there was a farcical occurrence. A senator shouted that Milo had a weapon concealed under his clothes, whereupon the accused disrobed himself and proved his accuser false. Pompey preferred to believe the hostile tribunes, who declared him to be in danger from Milo's machinations, and for the most part he shut himself up in his suburban residence, under the protection of a strong guard[3].

13. Towards the end of March the two laws were passed[4]. That relating to bribery concerns us little; but it is necessary to consider the innovations in procedure which the law dealing with violence enacted[5]. In the first place, the president of the new court was to be chosen by the Comitia from among those

[1] §§ 13 sq.; Ascon. 44, 45. Schol. Bob. 276, 281 sq.

[2] Pompey threatened to use force if the laws were not passed: Ascon. 37.

[3] Ascon. 37, 38.

[4] No doubt the laws passed at the earliest moment allowed by the constitution, i.e. when the period "*trinum nundinum*" had elapsed. It has been held that the *trinundinum* consisted of 17 days, i.e. the *shortest time* within which three market-days (*nundinae*) could occur, the interval between two *nundinae* being eight days. But *trinum nundinum* more probably indicates $3 \times 8 = 24$ days.

[5] It must be understood that while the law *de ambitu* was permanent, and took the place of the law *de ambitu* passed by Cicero in his consulship, the statute *de vi* was of temporary effect, and dealt only with the three particular offences mentioned above.

who had been consuls. The criminal courts (*quaestiones*), as finally constituted by Sulla, had for their presidents (*quaesitores*) either praetors or special commissioners nominated (probably) by the praetor urbanus and selected from men who had held the aedileship[1]. But in this year 52 no praetors had as yet been elected, and the choice from among the *consulares* was meant to give dignity to the office. Cn. Domitius Ahenobarbus, one of the consuls of 54, was at once chosen. He had distinguished himself in his political career as a bitter opponent of Caesar, and while Pompey was allied with Caesar had come into conflict with him also. Domitius took a prominent part when the civil war broke out, and was cut down by Caesar's cavalry during the flight of the Pompeians from the field of Pharsalia. The president of the new court having been appointed, the next step was to draw up a jury-list, from which the men who would actually try offenders were ultimately to be picked. Pompey, on whom the task had been thrown by the statute, promulgated a catalogue of 360 names, composed equally, as the custom was, of senators, *equites* and *tribuni aerarii*. These three orders had since the passing of the *lex Aurelia* in 70 B.C. held joint control over the criminal courts. The constitution and history of the third of these orders is in some respects obscure. The *tribuni aerarii* may have been originally men who had held in the tribes the office of paymaster to the troops when military expeditions were afoot. It is pretty clear that a certain amount of property was needed for membership of the body. The qualification was lower than that for an *eques*, and was probably fixed at 300,000 sesterces[2]. It was ordinarily the duty of the city praetor (*urbanus*) to frame the list of men who would be called to serve on the juries. The list was subject to revision every year. Pompey kept considerably within the usual number when he fixed 360 as his limit.

14. Milo was at once summoned to appear before three courts, the new court *de vi*, the new bribery court (*de ambitu*) and

[1] As to the mode of appointment of the *iudex quaestionis* no record is preserved.

[2] As to the *tribuni aerarii* see Heitland's edition of the speech for Rabirius, Appendix G.

the court which dealt with illegal organisations (*de sodaliciis*)[1]. The only one of these charges which was actually heard was the first. The prosecutors were the two Appii Claudii, nephews of the murdered Clodius. They were, like Clodius, direct descendants of the famous Appius Claudius the Decemvir, and were sons of one of the praetors of the year 56. The elder of the two brothers was originally named Gaius, but changed his name to Appius on being adopted by Appius Claudius Pulcher, his father's brother, who was consul along with Cn. Domitius Ahenobarbus in 54. The two prosecutors were quite young men. Indeed to single out a criminal for prosecution was deemed unworthy of a man of established reputation, unless he had some reason for entertaining a personal enmity against the culprit. But a young man might win his spurs by attacking notable offenders. On the present occasion the other motive of private resentment was of course not wanting.

15. The first sitting of the court was held on April 4. The elder Appius demanded that 54 slaves should be delivered up by Milo, in order that their evidence might be taken, as evidence of slaves always was, under torture. Milo answered that these slaves were not under his control, having been set free. Hereupon the judge, having taken the opinion of the jurors, or some of them, decided that the prosecutors might offer for torture as many as they pleased of the slaves who had belonged to the dead Clodius, and were now the property of his brother Appius Claudius. The evidence of some of these slaves might be expected to be of importance. According to the provisions of the statute, the next three days were given over to the hearing of evidence. Apparently all the 360 jurors were present during this stage of the case. On the fourth day (April 8) came what was called the *aequatio pilarum*. The 360 little ballot-balls, on each of which was stamped the name or initials of one of the jurors, were examined to see that they were all of the same size and structure, lest differences should make an unfair drawing possible. On the following day (April 9) the names of

[1] Ascon. 40.

81 jurymen were drawn, 27 from each of the three orders; the remainder were released from attendance. The 81 immediately took their seats on the bench and listened to the arguments of counsel; then they were reduced to 51 by challenges. The prosecuting counsel were by the law granted two hours, and those for the defence three. In a trial before Pompey's legislation took effect, the time allotted would have been considerably greater[1]. Against Milo spoke the elder of the two Appii Claudii, and two assistants (*subscriptores*) named M. Antonius (not the famous Mark Antony) and P. Valerius Nepos; for Milo Cicero spoke unaided[2].

16. The excitement during the five days of the trial in the forum was intense. On the first of the three days set apart for the witnesses, Causinius Schola (see § 6, above) deposed to the cruelty of Milo's deed. One of Cicero's assistants, M. Marcellus, rose to cross-examine. This was the signal for an uproar on the side of the Clodian faction, and Marcellus, alarmed, took refuge on the judgment-seat (*tribunal*) of the president of the court[3]. Milo then demanded a military guard which should secure all concerned in the case against violence. Pompey, who watched the trial from a position at some little distance, was seriously frightened, and brought down next day a force sufficient to overawe the multitude. Many men of Bovillae then testified to the incidents of the massacre, how the tavern was stormed, the innkeeper killed, and the body of Clodius flung on to the road. Some priestesses of a shrine on the Alban mount told a strange tale of a mysterious woman who appeared to fulfil at the shrine a vow undertaken in view of the murder of Clodius[4]. The last witnesses were Fulvia, the widow of Clodius, and her mother Sempronia. Their pathetic story and their tears made an impression on the court. But it appears that the man who had declared that he had been imprisoned for two months in Milo's

[1] The restriction of time for speeches seems to have been extended to all criminal trials by the *lex Pompeia de ambitu*; see Madvig, Opusc. Acad. II. 246.

[2] As there was, in the eye of the law, only one prosecutor, the younger Appius must have been, strictly speaking, *subscriptor*.

[3] Ascon. 41.

[4] Possibly these priestesses served the shrine of the Bona Dea.

country house had no place among the witnesses. At the conclusion of the evidence the virulent tribune, T. Munatius Plancus, addressed a meeting of the turbulent section of the citizens and exhorted them to attend on the following day in large numbers, and so prevent Milo from escaping the fate which he deserved.

17. On April 8 (the hundred and second day after the murder of Clodius) when the verdict was to be given, all the shops in the city were closed by proclamation, a measure sometimes taken by the higher magistrates when violence was feared, sometimes by the tribunes when it was desired; in the former case that property might be safer from destruction, in the latter that the workpeople might be free to attend at the scene of disorder. Every approach to the forum was blocked by armed men. The public buildings in the forum itself were occupied in force. Pompey, hemmed in by a chosen band, sat in front of the Treasury, at the temple of Saturn. The speeches of the counsel for the prosecution were heard in deep silence. But, when Cicero rose, he was assailed by such clamour that, as an ancient authority gently puts it, "he did not speak with his wonted courage[1]." In truth he was seized by panic and spoke ineffectively. The speech which he delivered was taken down by shorthand writers, and copies of it were in circulation as late as the time of Quintilian. The oration which has come down to us was written some time after the trial ended and doubtless differs widely from that which was actually spoken. When Milo was in exile he gave utterance to a famous saying, that if Cicero had been able to address to the jury the speech which he composed in his study afterwards, he (Milo) would never have enjoyed the fine mullets which figured on the dinner-tables of Massilia[2].

18. Milo was pronounced guilty by 38 votes against 13. The votes were distributed as follows. For condemnation: senators 12, equites 13, tribuni aerarii 13; for acquittal: senators 5, equites 4, tribuni aerarii 4[3]. The facts testify to a strong

[1] Ascon. 42. An exaggerated account, with imaginative details, is given by Plutarch, Cic. 35.

[2] Dio Cassius 40, 54.

[3] Asc. 53, where the numbers are slightly confused.

feeling on the part of the jury that the presence of Milo in Rome menaced seriously the public peace. If this feeling had not existed, even the influence of Pompey would scarcely have secured so decisive a vote against Milo. He must have had many friends and sympathisers among the jury, who would fain have pronounced him innocent if they could. Milo went into exile, and on April 9 sentence was given against him in the new court for trying cases of bribery (*de ambitu*) which was established by Pompey's statute. A little later he was pronounced guilty in the court for punishing illegal organisations (*de sodaliciis*), and again in the court which dealt with violence under the ordinary law (*de vi*). Milo's friend, L. Saufeius, who had led the attack on the inn at Bovillae, narrowly escaped conviction by the new court *de vi*, and was more easily acquitted by a jury who tried him for the same offence under the pre-existing statute. Saufeius was defended by Cicero in both cases. Sextus Clodius, who was put on his trial before the special commission, was almost unanimously condemned for burning the body of Clodius in the senate-house; and many others were sentenced, the greater part being of the Clodian faction. The special tribunal established by Pompey seems to have made an honest endeavour to clear the city of the bullies who had so long harassed it[1].

19. The penalty for Milo's offence was total loss of civil rights, and banishment from Roman soil, but there was no confiscation of the offender's property[2]. The criminal was wiped out from the number of Roman citizens, and should he return to regions where Roman citizens dwelt, all were forbidden to supply him with the two great necessaries of life, fire and water (*aquae et ignis interdictio*); while to slay him would be no offence against the law. In early days, when Rome made treaties with communities outside her boundaries, it was cus-

[1] Ascon. 54, 55.

[2] In the earlier theory of the Roman law, exile was not a punishment, but a mode of escape from the death which the law threatened. The earliest statute which named exile as a penalty was the *lex Tullia de ambitu* passed by Cicero in his consulship. The precedent was probably followed by Pompey in his legislation.

tomary to stipulate that each of the contracting parties should receive citizens driven into banishment by the other. When the territory of Rome was small, exiles from the city found refuge in towns a few miles distant from it, such as Tibur. But when the greater part of Italy had received the full Roman franchise, and the strictly Roman domain (*ager Romanus*, as opposed to the soil of the subject provinces) stretched northward to Cisalpine Gaul, and southward to the Sicilian straits, Roman exiles were compelled to go further afield. Milo sought shelter in the ancient city of Massilia as the infamous Verres had done before him. He became in full form a burgess of that community, and an alien from the country of his birth. His estate was so encumbered by debt that it had to be sold by auction[1]. The custom was that a bankrupt's property should be sold in one lump, the purchaser taking on himself to pay a certain fraction of the debts. In Milo's case the amount promised to the creditors was only one twenty-fourth part of the total they claimed[2]. The purchaser then sold all the property bit by bit as best he could. Cicero gave Milo great offence by allowing one of his freedmen to acquire some of the goods sold[3].

20. Caesar had disapproved of Milo's banishment, but when he drove Pompey out of Italy, although he restored a great number of exiles, Milo found no favour in his eyes. Milo's friend M. Caelius Rufus joined Caesar, and afterwards quarrelled with him. The two worthies then gathered a band of ruffians and for a time plundered some districts in Campania and southern Italy, but they soon found deaths meet for their turbulent lives[4].

[1] According to the elder Pliny (nat. hist. 36 § 104) the debts amounted to seventy millions of sesterces.

[2] Ascon. 54.

[3] Ad Att. 5, 8, 2 and 10, 4.

[4] Dio Cassius 42, 24; Caes. Bell. Civ. 3, 21 sq.

M. TVLLI CICERONIS

PRO T. ANNIO MILONE

AD IVDICES ORATIO.

§§ 1—6. The unusual display of force round about the court must inspire alarm. I and my client appeal to you, the jury, for support.

I. Etsi vereor, iudices, ne turpe sit pro fortissimo viro 1
dicere incipientem timere minimeque deceat, cum T. Annius
ipse magis de rei publicae salute quam de sua perturbetur,
me ad eius causam parem animi magnitudinem adferre non
posse, tamen haec novi iudici nova forma terret oculos,
qui quocumque inciderunt, consuetudinem fori et pristinum
morem iudiciorum requirunt. Non enim corona consessus 2
vester cinctus est, ut solebat, non usitata frequentia stipati
sumus, nec illa praesidia, quae pro templis omnibus cernitis,
etsi contra vim collocata sunt, non adferunt tamen aliquid
quo, ut in foro et in iudicio, quamquam praesidiis salutaribus
et necessariis saepti sumus, tamen ne non timere quidem
sine aliquo timore possimus. Quae si opposita Miloni
putarem, cederem tempori, iudices, nec inter tantam vim
armorum existimarem esse orationi locum; sed me recreat
et reficit Cn. Pompei, sapientissimi et iustissimi viri, consilium,
qui profecto nec iustitiae suae putaret esse, quem
reum sententiis iudicum tradidisset, eundem telis militum

dedere, nec sapientiae temeritatem concitatae multitudinis
3 auctoritate publica armare. Quam ob rem illa arma cen-
turiones cohortes non periculum nobis sed praesidium
denuntiant, neque solum ut quieto, sed etiam ut magno
animo simus hortantur, neque auxilium modo defensioni
meae, verum etiam silentium pollicentur. Reliqua vero
multitudo, quae quidem est civium, tota nostra est, neque
eorum quisquam quos undique intuentis, unde aliqua fori
pars adspici potest, et huius exitum iudici exspectantis
videtis, non cum virtuti Milonis favet, tum de se, de liberis
suis, de patria, de fortunis hodierno die decertari putat.

II. Vnum genus est adversum infestumque nobis, eorum
quos P. Clodi furor rapinis et incendiis et omnibus exitiis
publicis pavit; qui hesterna etiam contione incitati sunt ut
vobis voce praeirent quid iudicaretis. Quorum clamor si
qui forte fuerit, admonere vos debebit ut eum civem
retineatis qui semper genus illud hominum clamoresque
4 maximos prae vestra salute neglexit. Quam ob rem adeste
animis, iudices, et timorem si quem habetis deponite. Nam
si umquam de bonis et fortibus viris, si umquam de bene
meritis civibus potestas vobis iudicandi fuit, si denique
umquam locus amplissimorum ordinum delectis viris datus
est, ut sua studia erga fortis et bonos civis, quae voltu et
verbis saepe significassent, re et sententiis declararent, hoc
profecto tempore eam potestatem omnem vos habetis, ut
statuatis utrum nos, qui semper vestrae auctoritati dediti
fuimus, semper miseri lugeamus, an diu vexati a perditis-
simis civibus aliquando per vos ac per vestram fidem, vir-
5 tutem sapientiamque recreemur. Quid enim nobis duobus,
iudices, laboriosius, quid magis sollicitum, magis exercitum
dici aut fingi potest, qui spe amplissimorum praemiorum ad
rem publicam adducti metu crudelissimorum suppliciorum
carere non possumus? Equidem ceteras tempestates et

procellas in illis dumtaxat fluctibus contionum semper putavi
Miloni esse subeundas, quia semper pro bonis contra im-
probos senserat; in iudicio vero et in eo consilio, in quo
ex cunctis ordinibus amplissimi viri iudicarent, numquam
existimavi spem ullam esse habituros Milonis inimicos ad
eius non modo salutem exstinguendam, sed etiam gloriam
per talis viros infringendam. Quamquam in hac causa, 6
iudices, T. Anni tribunatu rebusque omnibus pro salute rei
publicae gestis ad huius criminis defensionem non abutemur.
Nisi oculis videritis insidias Miloni a Clodio factas, nec de-
precaturi sumus ut crimen hoc nobis propter multa praeclara
in rem publicam merita condonetis, nec postulaturi ut, si
mors P. Clodi salus vestra fuerit, idcirco eam virtuti Milonis
potius quam populi Romani felicitati adsignetis. Sin illius
insidiae clariores hac luce fuerint, tum denique obsecrabo
obtestaborque vos, iudices, si cetera amisimus, hoc nobis
saltem ut relinquatur, vitam ab inimicorum audacia telisque
ut impune liceat defendere.

§§ 7—11. Killing in self-defence is innocent, as is shown by the history of our nation, and by the words of the law which punishes murder.

III. Sed antequam ad eam orationem venio, quae est 7
propria vestrae quaestionis, videntur ea esse refutanda, quae
et in senatu ab inimicis saepe iactata sunt et in contione ab
improbis et paulo ante ab accusatoribus, ut omni errore
sublato rem plane, quae veniat in iudicium, videre possitis.
Negant intueri lucem esse fas ei, qui a se hominem occisum
esse fateatur. In qua tandem urbe hoc homines stultissimi
disputant? Nempe in ea, quae primum iudicium de capite
vidit M. Horati, fortissimi viri, qui nondum libera civitate
tamen populi Romani comitiis liberatus est, cum sua manu
sororem esse interfectam fateretur. An est quisquam qui 8

hoc ignoret, cum de homine occiso quaeratur, aut negari solere omnino esse factum aut recte et iure factum esse defendi? Nisi vero existimatis dementem P. Africanum fuisse, qui cum a C. Carbone tribuno plebis seditiose in contione interrogaretur, quid de Ti. Gracchi morte sentiret, responderit iure caesum videri. Neque enim posset aut Ahala ille Servilius aut P. Nasica aut L. Opimius aut C. Marius aut me consule senatus non nefarius haberi, si sceleratos civis interfici nefas esset. Itaque hoc, iudices, non sine causa etiam fictis fabulis doctissimi homines memoriae prodiderunt, eum qui patris ulciscendi causa matrem necavisset, variatis hominum sententiis non solum divina,

9 sed etiam sapientissimae deae sententia liberatum. Quod si duodecim tabulae nocturnum furem quoquo modo, diurnum autem, si se telo defenderet, interfici impune voluerunt, quis est qui, quoquo modo quis interfectus sit, poeniendum putet, cum videat aliquando gladium nobis ad hominem occidendum ab ipsis porrigi legibus? IV. Atqui si tempus est ullum iure hominis necandi, quae multa sunt, certe illud est non modo iustum, verum etiam necessarium, cum vi vis illata defenditur. Pudicitiam cum eriperet militi tribunus militaris in exercitu C. Mari propincus eius imperatoris, interfectus ab eo est cui vim adferebat; facere enim probus adulescens periculose quam perpeti turpiter maluit. Atque hunc ille summus vir scelere solutum periculo liberavit.

10 Insidiatori vero et latroni quae potest inferri iniusta nex? Quid comitatus nostri, quid gladii volunt? Quos habere certe non liceret, si uti illis nullo pacto liceret. Est igitur haec, iudices, non scripta sed nata lex, quam non didicimus accepimus legimus, verum ex natura ipsa adripuimus hausimus expressimus, ad quam non docti sed facti, non instituti sed imbuti sumus, ut, si vita nostra in aliquas insidias, si in vim et in tela aut latronum aut inimicorum incidisset, omnis

honesta ratio esset expediendae salutis. Silent enim leges inter arma nec se exspectari iubent, cum ei qui exspectare velit, ante iniusta poena luenda sit quam iusta repetenda. Etsi persapienter et quodam modo tacite dat ipsa lex potes- 11
tatem defendendi, quae non modo hominem occidi, sed esse cum telo hominis occidendi causa vetat, ut, cum causa non telum quaereretur, qui sui defendendi causa telo esset usus, non hominis occidendi causa habuisse telum iudicaretur. Quapropter hoc maneat in causa, iudices; non enim dubito quin probaturus sim vobis defensionem meam, si id memineritis, quod oblivisci non potestis, insidiatorem interfici iure posse.

§§ 12—14. Do not believe the statement that the senate, in voting for the present inquiry, gave any opinion that Milo is guilty.

V. Sequitur illud quod a Milonis inimicis saepissime di- 12
citur, caedem in qua P. Clodius occisus est, senatum iudicasse contra rem publicam esse factam. Illam vero senatus non sententiis suis solum, sed etiam studiis comprobavit. Quotiens enim est illa causa a nobis acta in senatu, quibus adsensionibus universi ordinis, quam nec tacitis nec occultis! Quando enim frequentissimo senatu quattuor aut summum quinque sunt inventi, qui Milonis causam non probarent? Declarant huius ambusti tribuni plebis illae intermortuae contiones, quibus cotidie meam potentiam invidiose criminabatur, cum diceret senatum non quod sentiret sed quod ego vellem decernere. Quae quidem si potentia est appellanda potius quam aut propter magna in rem publicam merita mediocris in bonis causis auctoritas aut propter hos officiosos labores meos non nulla apud bonos gratia, appelletur ita sane, dum modo ea nos utamur pro salute bonorum contra amentiam perditorum. Hanc vero quaestionem, etsi 13

non est iniqua, numquam tamen senatus constituendam putavit; erant enim leges, erant quaestiones vel de caede vel de vi, nec tantum maerorem ac luctum senatui mors P. Clodi adferebat ut nova quaestio constitueretur. Cuius enim de illo incesto stupro iudicium decernendi senatui potestas esset erepta, de eius interitu quis potest credere senatum iudicium novom constituendum putasse? Cur igitur incendium curiae, oppugnationem aedium M. Lepidi, caedem hanc ipsam contra rem publicam senatus factam esse decrevit? Quia nulla vis umquam est in libera civitate
14 suscepta inter civis non contra rem publicam. Non enim est illa defensio contra vim umquam optanda, sed non numquam est necessaria; nisi vero aut ille dies, quo Tiberius Gracchus est caesus, aut ille, quo Gaius, aut quo arma Saturnini, etiam si e re publica, oppressa sunt, rem publicam tamen non volnerarunt. VI. Itaque ego ipse decrevi, cum caedem in Appia factam esse constaret, non eum qui se defendisset contra rem publicam fecisse, sed, cum inesset in re vis et insidiae, crimen iudicio reservavi, rem notavi. Quod si per furiosum illum tribunum senatui quod sentiebat perficere licuisset, novam quaestionem nullam haberemus; decernebat enim ut veteribus legibus, tantum modo extra ordinem quaereretur. Divisa sententia est postulante nescio quo (nihil enim necesse est omnium me flagitia proferre); sic reliqua auctoritas senatus empta intercessione sublata est.

§§ 15—22. Nor has Pompey given any opinion. Not sorrow for Clodius, but the circumstances of the time, led him to legislate, and he chose for the court men who were certain to do justice.

15 At enim Cn. Pompeius rogatione sua et de re et de causa iudicavit; tulit enim de caede, quae in Appia via facta esset, in qua P. Clodius occisus esset. Quid ergo

tulit? Nempe ut quaereretur. Quid porro quaerendum est? Factumne sit? At constat. A quo? At patet. Vidit igitur etiam in confessione facti iuris tamen defensionem suscipi posse. Quod nisi vidisset posse absolvi eum qui fateretur, cum videret nos fateri, neque quaeri umquam iussisset nec vobis tam hanc salutarem in iudicando litteram quam illam tristem dedisset. Mihi vero Cn. Pompeius non modo nihil gravius contra Milonem iudicasse, sed etiam statuisse videtur, quid vos in iudicando spectare oporteret; nam qui non poenam confessioni, sed defensionem dedit, is causam interitus quaerendam, non interitum putavit.
VII. Iam illud ipse dicet profecto, quod sua sponte fecit, 16
Publione Clodio tribuendum putarit an tempori. Domi suae nobilissimus vir, senatus propugnator atque illis quidem temporibus paene patronus, avonculus huius iudicis nostri, fortissimi viri, M. Catonis, tribunus plebis M. Drusus occisus est; nihil de eius morte populus consultus, nulla quaestio decreta a senatu est. Quantum luctum in hac urbe fuisse a nostris patribus accepimus, cum P. Africano domi suae quiescenti illa nocturna vis esset illata! Quis tum non gemuit? Quis non arsit dolore, quem immortalem, si fieri posset, omnes esse cuperent, eius ne necessariam quidem exspectatam esse mortem? Num igitur ulla quaestio de Africani morte lata est? Certe nulla. Quid ita? Quia 17
non alio facinore clari homines, alio obscuri necantur. Intersit inter vitae dignitatem summorum atque infimorum; mors quidem illata per scelus isdem et poenis teneatur et legibus. Nisi forte magis erit parricida, si qui consularem patrem, quam si quis humilem necarit, aut eo mors atrocior erit P. Clodi, quod is in monumentis maiorum suorum est interfectus; hoc enim ab istis saepe dicitur; proinde quasi Appius ille Caecus viam muniverit, non qua populus uteretur, sed ubi impune sui posteri latrocinarentur. Itaque in 18

eadem ista Appia via cum ornatissimum equitem Romanum P. Clodius M. Papirium occidisset, non fuit illud facinus poeniendum; homo enim nobilis in suis monumentis equitem Romanum occiderat; nunc eiusdem Appiae nomen quantas tragoedias excitat! Quae cruentata antea caede honesti atque innocentis viri silebatur, eadem nunc crebro usurpatur, posteaquam latronis et parricidae sanguine imbuta est. Sed quid ego illa commemoro? Comprehensus est in templo Castoris servos P. Clodi, quem ille ad Cn. Pompeium interficiendum collocarat; extorta est ei confitenti sica de manibus; caruit foro postea Pompeius, caruit senatu, caruit publico; ianua se ac parietibus, non iure legum iu-
19 diciorumque texit. Num quae rogatio lata, num quae nova quaestio decreta est? Atqui si res, si vir, si tempus ullum dignum fuit, certe haec in illa causa summa omnia fuerunt. Insidiator erat in foro collocatus atque in vestibulo ipso senatus; ei viro autem mors parabatur, cuius in vita nitebatur salus civitatis; eo porro rei publicae tempore, quo si unus ille cecidisset, non haec solum civitas, sed gentes omnes concidissent. Nisi vero, quia perfecta res non est, non fuit poenienda; proinde quasi exitus rerum, non hominum consilia legibus vindicentur. Minus dolendum fuit re non
20 perfecta, sed poeniendum certe nihilo minus. Quotiens ego ipse, iudices, ex P. Clodi telis et ex cruentis eius manibus effugi! Ex quibus si me non vel mea vel rei publicae fortuna servasset, quis tandem de interitu meo quaestionem tulisset? VIII. Sed stulti sumus, qui Drusum, qui Africanum Pompeium nosmet ipsos cum P. Clodio conferre audeamus. Tolerabilia fuerunt illa; P. Clodi mortem aequo animo ferre nemo potest. Luget senatus, maeret equester ordo, tota civitas confecta senio est; squalent municipia, adflictantur coloniae, agri denique ipsi tam beneficum, tam
21 salutarem, tam mansuetum civem desiderant. Non fuit ea

causa, iudices, profecto, non fuit, cur sibi censeret Pompeius quaestionem ferendam; sed homo sapiens atque alta et divina quadam mente praeditus multa vidit: fuisse illum sibi inimicum, familiarem Milonem; in communi omnium laetitia si etiam ipse gauderet, timuit ne videretur infirmior fides reconciliatae gratiae; multa etiam alia vidit, sed illud maxime, quamvis atrociter ipse tulisset, vos tamen fortiter iudicaturos. Itaque delegit ex florentissimis ordinibus ipsa lumina, neque vero, quod non nulli dictitant, secrevit in iudicibus legendis amicos meos; neque enim hoc cogitavit vir iustissimus, neque in bonis viris legendis id adsequi potuisset, etiam si cupisset. Non enim mea gratia familiaritatibus continetur, quae late patere non possunt, propterea quod consuetudines victus non possunt esse cum multis; sed si quid possumus, ex eo possumus, quod res publica nos coniunxit cum bonis; ex quibus ille cum optimos viros legeret idque maxime ad fidem suam pertinere arbitraretur, non potuit legere non studiosos mei. Quod vero te, 22 L. Domiti, huic quaestioni praeesse maxime voluit, nihil quaesivit aliud nisi iustitiam gravitatem humanitatem fidem. Tulit ut consularem necesse esset, credo, quod principum munus esse ducebat resistere et levitati multitudinis et perditorum temeritati. Ex consularibus te creavit potissimum; dederas enim, quam contemneres popularis insanias, iam ab adulescentia documenta maxima.

§§ 23—29. I will now demonstrate to you the facts on which the case rests.

IX. Quam ob rem, iudices, ut aliquando ad causam cri- 23 menque veniamus, si neque omnis confessio facti est inusitata, neque de causa nostra quicquam aliter ac nos vellemus a senatu iudicatum est, et lator ipse legis, cum esset controversia nulla facti, iuris tamen disceptationem esse voluit, et

ei lecti iudices isque praepositus est quaestioni, qui haec
iuste sapienterque disceptet, relicum est, iudices, ut nihil
iam quaerere aliud debeatis, nisi uter utri insidias fecerit.
Quod quo facilius perspicere possitis, argumentis rem gestam
vobis dum breviter expono, quaeso, diligenter attendite.

24 P. Clodius cum statuisset omni scelere in praetura vexare
rem publicam videretque ita tracta esse comitia anno supe-
riore ut non multos mensis praeturam gerere posset, qui
non honoris gradum spectaret, ut ceteri, sed et L. Paulum
collegam effugere vellet, singulari virtute civem, et annum
integrum ad dilacerandam rem publicam quaereret, subito
reliquit annum suum seseque in proximum annum trans-
tulit, non, ut fit, religione aliqua, sed ut haberet, quod ipse
dicebat, ad praeturam gerendam, hoc est ad evertendam rem
25 publicam, plenum annum atque integrum. Occurrebat ei
mancam ac debilem praeturam futuram suam consule
Milone; eum porro summo consensu populi Romani con-
sulem fieri videbat. Contulit se ad eius competitores, sed
ita, totam ut petitionem ipse solus etiam invitis illis guber-
naret, tota ut comitia suis, ut dictitabat, umeris sustineret.
Convocabat tribus, se interponebat, Collinam novam dilectu
perditissimorum civium conscribebat. Quanto ille plura
miscebat, tanto hic magis in dies convalescebat. Vbi vidit
homo ad omne facinus paratissimus fortissimum virum
inimicissimum suum certissimum consulem, idque intellexit
non solum sermonibus, sed etiam suffragiis populi Romani
saepe esse declaratum, palam agere coepit et aperte dicere
26 occidendum Milonem. Servos agrestis et barbaros, quibus
silvas publicas depopulatus erat Etruriamque vexarat, ex
Appennino deduxerat, quos videbatis. Res erat minime
obscura; etenim dictitabat palam consulatum eripi Miloni
non posse, vitam posse. Significavit hoc saepe in senatu,
dixit in contione, quin etiam Favonio, fortissimo viro, quae-

renti ex eo, qua spe fureret Milone vivo, respondit triduo illum aut summum quadriduo esse periturum; quam vocem eius ad hunc M. Catonem statim Favonius detulit. X. In- 27
terim cum sciret Clodius (neque enim erat difficile scire) iter sollemne legitimum necessarium ante diem XIII Kalendas Februarias Miloni esse Lanuvium ad flaminem prodendum, quod erat dictator Lanuvii Milo, Roma subito ipse profectus pridie est, ut ante suum fundum, quod re intellectum est, Miloni insidias collocaret; atque ita profectus est, ut contionem turbulentam, in qua eius furor desideratus est, quae illo ipso die habita est, relinqueret, quam, nisi obire facinoris locum tempusque voluisset, numquam reliquisset. Milo 28
autem cum in senatu fuisset eo die, quoad senatus est dimissus, domum venit; calceos et vestimenta mutavit; paulisper, dum se uxor, ut fit, comparat, commoratus est, dein profectus id temporis, cum iam Clodius, si quidem eo die Romam venturus erat, redire potuisset. Obviam fit ei Clodius expeditus, in equo, nulla raeda, nullis impedimentis, nullis Graecis comitibus, ut solebat, sine uxore, quod numquam fere, cum hic insidiator, qui iter illud ad caedem faciendam apparasset, cum uxore veheretur in raeda paenulatus, magno et impedito et muliebri ac delicato ancillarum puerorumque comitatu. Fit obviam Clodio ante fundum 29
eius hora fere undecima aut non multo secus. Statim complures cum telis in hunc faciunt de loco superiore impetum adversi, raedarium occidunt. Cum autem hic de raeda reiecta paenula desiluisset seque acri animo defenderet, illi qui erant cum Clodio, gladiis eductis, partim recurrere ad raedam, ut a tergo Milonem adorirentur, partim, quod hunc iam interfectum putarent, caedere [incipiunt] eius servos, qui post erant; ex quibus qui animo fideli in dominum et praesenti fuerunt, partim occisi sunt, partim, cum ad raedam pugnari viderent, domino succurrere prohiberentur, Milonem

occisum et ex ipso Clodio audirent et re vera putarent, fecerunt id servi Milonis (dicam enim aperte non derivandi criminis causa, sed ut factum est) nec imperante nec sciente nec praesente domino, quod suos quisque servos in tali re facere voluisset.

§§ 30, 31. The only question before the court is whether Clodius set a trap for Milo or Milo for Clodius.

30 XI. Haec, sicuti exposui, ita gesta sunt, iudices; insidiator superatus est; vi victa vis vel potius oppressa virtute audacia est. Nihil dico quid res publica consecuta sit, nihil quid vos, nihil quid omnes boni; nihil sane id prosit Miloni, qui hoc fato natus est, ut ne se quidem servare potuerit, quin una rem publicam vosque servaret. Si id iure fieri non potuit, nihil habeo quod defendam; sin hoc et ratio doctis et necessitas barbaris et mos gentibus et feris etiam beluis natura ipsa praescripsit, ut omnem semper vim, quacumque ope possent, a corpore, a capite, a vita sua propulsarent, non potestis hoc facinus improbum iudicare, quin simul iudicetis omnibus, qui in latrones inciderint, aut illorum telis aut vestris sententiis esse pereundum.
31 Quod si ita putasset, certe optabilius Miloni fuit dare iugulum P. Clodio, non semel ab illo neque tum primum petitum, quam iugulari a vobis, quia se non iugulandum illi tradidisset. Sin hoc nemo vestrum ita sentit, non illud iam in iudicium venit, occisusne sit, quod fatemur, sed iure an iniuria, quod multis in causis saepe quaesitum est. Insidias factas esse constat, et id est, quod senatus contra rem publicam factum iudicavit; ab utro factae sint incertum est; de hoc igitur latum est ut quaereretur. Ita et senatus rem, non hominem notavit, et Pompeius de iure, non de facto quaestionem tulit. XII. Num quid igitur aliud in

iudicium venit, nisi uter utri insidias fecerit? Profecto nihil; si hic illi, ut ne sit impune; si ille huic, ut scelere solvamur.

§§ 32—34. Clodius had much to gain by Milo's death; Milo not only gained nothing by the death of Clodius, but was actually a loser.

Quonam igitur pacto probari potest insidias Miloni fecisse 32
Clodium? Satis est in illa quidem tam audaci, tam nefaria belua docere magnam ei causam, magnam spem in Milonis morte propositam, magnas utilitates fuisse. Itaque illud Cassianum, cui bono fuerit, in his personis valeat, etsi boni nullo emolumento impelluntur in fraudem, improbi saepe parvo. Atqui Milone interfecto Clodius haec adsequebatur, non modo ut praetor esset non eo consule, quo sceleris facere nihil posset, sed etiam ut eis consulibus praetor esset, quibus si non adiuvantibus, at coniventibus certe, speraret se posse eludere in illis suis cogitatis furoribus; cuius illi conatus, ut ipse ratiocinabatur, nec cuperent reprimere, si possent, cum tantum beneficium ei se debere arbitrarentur, et, si vellent, fortasse vix possent frangere hominis sceleratissimi corroboratam iam vetustate audaciam.
An vero, iudices, vos soli ignoratis, vos hospites in hac 33
urbe versamini? Vestrae peregrinantur aures neque in hoc pervagato civitatis sermone versantur, quas ille leges, si leges nominandae sunt ac non faces urbis, pestes rei publicae, fuerit impositurus nobis omnibus atque inusturus? Exhibe, exhibe, quaeso, Sexte Clodi, librarium illud legum vestrarum, quod te aiunt eripuisse e domo et ex mediis armis turbaque nocturna tamquam Palladium extulisse, ut praeclarum videlicet munus atque instrumentum tribunatus ad aliquem, si nanctus esses, qui tuo arbitrio tribunatum gereret, deferre posses. Et adspexit me illis quidem oculis, quibus tum solebat, cum omnibus omnia minabatur.

me quippe lumen curiae. XIII. Quid? Tu me tibi iratum, Sexte, putas, cuius tu inimicissimum multo crudelius etiam poenitus es, quam erat humanitatis meae postulare? Tu P. Clodi cruentum cadaver eiecisti domo, tu in publicum abiecisti, tu spoliatum imaginibus exsequiis pompa laudatione, infelicissimis lignis semustilatum, nocturnis canibus dilaniandum reliquisti. Qua re etsi nefarie fecisti, tamen, quoniam in meo inimico crudelitatem exprompsisti tuam, laudare non possum, irasci certe non debeo.

* * * * * *

34 Videtis, iudices, quantum Clodi interfuerit occidi Milonem; convertite animos nunc vicissim ad Milonem. Quid Milonis intererat interfici Clodium? Quid erat cur Milo non dicam admitteret, sed optaret? Obstabat in spe consulatus Miloni Clodius. At eo repugnante fiebat, immo vero eo fiebat magis, nec me suffragatore meliore utebatur quam Clodio. Valebat apud vos, iudices, Milonis erga me remque publicam meritorum memoria, valebant preces et lacrimae nostrae, quibus ego tum vos mirifice moveri sentiebam, sed plus multo valebat periculorum impendentium timor. Quis enim erat civium, qui sibi solutam P. Clodi praeturam sine maximo rerum novarum metu proponeret? Solutam autem fore videbatis, nisi esset is consul, qui eam auderet possetque constringere. Eum Milonem unum esse cum sentiret universus populus Romanus, quis dubitaret suffragio suo se metu, periculo rem publicam liberare? At nunc, Clodio remoto, usitatis iam rebus enitendum est Miloni, ut tueatur dignitatem suam; singularis illa et huic uni concessa gloria, quae cotidie augebatur frangendis furoribus Clodianis, iam Clodi morte cecidit. Vos adepti estis, ne quem civem metueretis; hic exercitationem virtutis, suffragationem consulatus, fontem perennem gloriae suae perdidit. Itaque Milonis consulatus, qui vivo Clodio labe-

factari non poterat, mortuo denique temptari coeptus est.
Non modo igitur nihil prodest, sed obest etiam Clodi mors
Miloni.

At valuit odium, fecit iratus, fecit inimicus, fuit ultor 35
iniuriae, poenitor doloris sui. Quid si haec non dico
maiora fuerunt in Clodio quam in Milone, sed in illo
maxima, nulla in hoc, quid voltis amplius? Quid enim
odisset Clodium Milo, segetem ac materiam suae gloriae,
praeter hoc civile odium, quo omnes improbos odimus?
Ille erat ut odisset primum defensorem salutis meae, deinde
vexatorem furoris, domitorem armorum suorum, postremo
etiam accusatorem suum; reus enim Milonis lege Plotia
fuit Clodius, quoad vixit. Quo tandem animo hoc tyran-
num illum tulisse creditis? Quantum odium illius et in
homine iniusto quam etiam iustum fuisse?

§§ 36, 37. The characters of the two men indicate clearly which was the plotter.

XIV. Relicum est ut iam illum natura ipsius con- 36
suetudoque defendat, hunc autem haec eadem coarguant.
Nihil per vim umquam Clodius, omnia per vim Milo.
Quid? Ego, iudices, cum maerentibus vobis urbe cessi,
iudiciumne timui, non servos, non arma, non vim? Quae
fuisset igitur iusta causa restituendi mei, nisi fuisset iniusta
eiciendi? Diem mihi, credo, dixerat, multam irrogarat,
actionem perduellionis intenderat, et mihi videlicet in causa
aut mala aut mea, non et praeclarissima et vestra, iudicium
timendum fuit. Servorum et egentium civium et facinoro-
sorum armis meos civis meis consiliis periculisque servatos
pro me obici nolui. Vidi enim, vidi hunc ipsum Q. 37
Hortensium, lumen et ornamentum rei publicae, paene in-
terfici servorum manu, cum mihi adesset; qua in turba
C. Vibienus senator, vir optimus, cum hoc cum esset una,

ita est mulcatus ut vitam amiserit. Itaque quando illius postea sica illa, quam a Catilina acceperat, conquievit? Haec intentata nobis est, huic ego vos obici pro me non sum passus, haec insidiata Pompeio est, haec istam Appiam, monumentum sui nominis, nece Papiri cruentavit, haec eadem longo intervallo conversa rursus est in me; nuper quidem, ut scitis, me ad regiam paene confecit.

§§ 38—43. There were many moments when Milo might have killed Clodius had he wished; moments when all would have applauded the act. He would never have plotted to do the deed at a time when it was sure to damage him.

38 Quid simile Milonis? Cuius vis omnis haec semper fuit,
ne P. Clodius, cum in iudicium detrahi non posset, vi oppres-
sam civitatem teneret. Quem si interficere voluisset, quantae
quotiens occasiones, quam praeclarae fuerunt! Potuitne,
cum domum ac deos penatis suos illo oppugnante defen-
deret, iure se ulcisci? Potuitne civi egregio et viro fortis-
simo, P. Sestio, collega suo, volnerato? Potuitne Q. Fabricio,
viro optimo, cum de reditu meo legem ferret, pulso, crude-
lissima in foro caede facta? Potuitne L. Caecili, iustissimi
fortissimique praetoris, oppugnata domo? Potuitne illo
die, cum est lata lex de me, cum totius Italiae concursus,
quem mea salus concitarat, facti illius gloriam libens agno-
visset, ut, etiam si id Milo fecisset, cuncta civitas eam
39 laudem pro sua vindicaret? XV. At quod erat tempus!
Clarissimus et fortissimus consul inimicus Clodio, P. Len-
tulus, ultor sceleris illius, propugnator senatus, defensor
vestrae voluntatis, patronus publici consensus, restitutor
salutis meae; septem praetores, octo tribuni plebis illius
adversarii, defensores mei; Cn. Pompeius auctor et dux
mei reditus, illius hostis, cuius sententiam senatus omnis de

salute mea gravissimam et ornatissimam secutus est, qui populum Romanum est cohortatus, qui, cum decretum de me Capuae fecit, ipse cunctae Italiae cupienti et eius fidem imploranti signum dedit ut ad me restituendum Romam concurrerent; omnium denique in illum odia civium ardebant desiderio mei, quem qui tum interemisset, non de impunitate eius, sed de praemiis cogitaretur. Tamen se Milo continuit et P. Clodium in iudicium bis, ad vim numquam vocavit. Quid? Privato Milone et reo ad populum 40
accusante P. Clodio, cum in Cn. Pompeium pro Milone dicentem impetus factus est, quae tum non modo occasio, sed etiam causa illius opprimendi fuit! Nuper vero, cum M. Antonius summam spem salutis bonis omnibus attulisset gravissimamque adulescens nobilissimus rei publicae partem fortissime suscepisset atque illam beluam iudici laqueos declinantem iam irretitam teneret, qui locus, quod tempus illud, di immortales, fuit! Cum se ille fugiens in scalarum tenebras abdidisset, magnum Miloni fuit conficere illam pestem nulla sua invidia, M. vero Antoni maxima gloria! Quid? Comitiis in campo quotiens potestas fuit, cum ille 41
in saepta ruisset, gladios destringendos, lapides iaciendos curavisset, dein subito voltu Milonis perterritus fugeret ad Tiberim, vos et omnes boni vota faceretis, ut Miloni uti virtute sua liberet.

XVI. Quem igitur cum omnium gratia noluit, hunc voluit cum aliquorum querella, quem iure, quem loco, quem tempore, quem impune non est ausus, hunc iniuria, iniquo loco, alieno tempore, periculo capitis non dubitavit occidere? Praesertim, iudices, cum honoris amplissimi contentio et 42
dies comitiorum subesset, quo quidem tempore (scio enim, quam timida sit ambitio quantaque et quam sollicita sit cupiditas consulatus) omnia, non modo quae reprehendi palam, sed etiam quae obscure cogitari possunt, timemus,

rumorem veremur, fabulam falsam fictam levem perhorrescimus, ora omnium atque oculos intuemur. Nihil est enim tam molle, tam tenerum, tam aut fragile aut flexibile quam voluntas erga nos sensusque civium, qui non modo improbitati irascuntur candidatorum, sed etiam in recte factis
43 saepe fastidiunt. Hunc igitur diem campi speratum atque exoptatum sibi proponens Milo cruentis manibus, scelus et facinus prae se ferens et confitens, ad illa augusta centuriarum auspicia veniebat? Quam hoc non credibile in hoc, quam idem in Clodio non dubitandum, cum se ille interfecto Milone regnaturum putaret! Quid? Quod caput est audaciae, iudices, quis ignorat maximam illecebram esse peccandi impunitatis spem? In utro igitur haec fuit? In Milone, qui etiam nunc reus est facti aut praeclari aut certe necessarii, an in Clodio, qui ita iudicia poenamque contempserat, ut eum nihil delectaret, quod aut per naturam fas esset aut per leges liceret?

§§ 44—51. Clodius had threatened that Milo should die on that very day when the fray took place. He knew well where to meet Milo; Milo could not have known where to fall in with him.

44 Sed quid ego argumentor? Quid plura disputo? Te, Q. Petili, appello, optimum et fortissimum civem; te, M. Cato, testor, quos mihi divina quaedam sors dedit iudices. Vos ex M. Favonio audistis, Clodium sibi dixisse, et audistis vivo Clodio, periturum Milonem triduo. Post diem tertium gesta res est quam dixerat. Cum ille non dubitarit aperire quid cogitaret, vos potestis dubitare quid fecerit?
45 XVII. Quem ad modum igitur eum dies non fefellit? Dixi equidem modo: dictatoris Lanuvini stata sacrificia nosse negoti nihil erat. Vidit necesse esse Miloni proficisci Lanuvium illo ipso quo est profectus die, itaque antevertit.

At quo die? Quo, ut ante dixi, fuit insanissima contio, ab ipsius mercennario tribuno plebis concitata; quem diem ille, quam contionem, quos clamores, nisi ad cogitatum facinus approperaret, numquam reliquisset. Ergo illi ne causa quidem itineris, etiam causa manendi, Miloni manendi nulla facultas, exeundi non causa solum, sed etiam necessitas fuit. Quid si, ut ille scivit Milonem fore eo die in via, sic Clodium Milo ne suspicari quidem potuit? Primum 46
quaero, qui id scire potuerit, quod vos idem in Clodio quaerere non potestis. Vt enim neminem alium nisi T. Patinam, familiarissimum suum, rogasset, scire potuit illo ipso die Lanuvii a dictatore Milone prodi flaminem necesse esse; sed erant permulti alii, ex quibus id facillime scire posset. Milo de Clodi reditu unde quaesivit? Quaesierit sane (videte quid vobis largiar); servom etiam, ut Q. Arrius, meus amicus, dixit, corruperit. Legite testimonia testium vestrorum. Dixit C. Causinius Schola Interamnanus, familiarissimus et idem comes Clodi, cuius iam pridem testimonio Clodius eadem hora Interamnae fuerat et Romae, P. Clodium illo die in Albano mansurum fuisse, sed subito ei esse nuntiatum Cyrum architectum esse mortuum, itaque repente Romam constituisse proficisci; dixit hoc comes item P. Clodi, C. Clodius. XVIII. Videte, 47
iudices, quantae res his testimoniis sint confectae. Primum certe liberatur Milo non eo consilio profectus esse, ut insidiaretur in via Clodio; quippe, si ille obvius ei futurus omnino non erat. Deinde (non enim video cur non meum quoque agam negotium) scitis, iudices, fuisse qui in hac rogatione suadenda dicerent, Milonis manu caedem esse factam, consilio vero maioris alicuius; me videlicet latronem ac sicarium abiecti homines et perditi describebant. Iacent suis testibus, qui Clodium negant eo die Romam, nisi de Cyro audisset, fuisse rediturum. Respiravi, liberatus

sum; non vereor ne, quod ne suspicari quidem potuerim, videar id cogitasse.

48 Nunc persequar cetera; nam occurrit illud. Igitur ne Clodius quidem de insidiis cogitavit, quoniam fuit in Albano mansurus. Si quidem exiturus ad caedem e villa non fuisset. Video enim illum qui dicatur de Cyri morte nuntiasse, non id nuntiasse, sed Milonem appropinquare. Nam quid de Cyro nuntiaret, quem Clodius Roma proficiscens reliquerat morientem? Vna fui; testamentum simul obsignavi cum Clodio; testamentum autem palam fecerat et illum heredem et me scripserat. Quem pridie hora tertia animam efflantem reliquisset, eum mortuum postridie hora decima

49 denique ei nuntiabatur? XIX. Age, sit ita factum; quae causa, cur Romam properaret, cur in noctem se coniceret? Ecquid adferebat festinationis quod heres erat? Primum erat nihil cur properato opus esset; deinde, si quid esset, quid tandem erat quod ea nocte consequi posset, amitteret autem, si postridie Romam mane venisset? Atque ut illi nocturnus ad urbem adventus vitandus potius quam expetendus fuit, sic Miloni, cum insidiator esset, si illum ad urbem noctu accessurum sciebat, subsidendum atque exspectandum fuit. Noctu occidisset, insidioso et pleno la-

50 tronum loco. Nemo ei neganti non credidisset, quem esse omnes salvom etiam confitentem volunt. Sustinuisset hoc crimen primum ipse ille latronum occultator et receptor locus, tum neque muta solitudo indicasset neque caeca nox ostendisset Milonem; deinde ibi multi ab illo violati, spoliati, bonis expulsi, multi haec etiam timentes in suspicionem caderent, tota denique rea citaretur Etruria.

51 Atque illo die certe Aricia rediens devertit Clodius ad Albanum. Quod ut sciret Milo illum Ariciae fuisse, suspicari tamen debuit eum, etiam si Romam illo die reverti vellet, ad villam suam, quae viam tangeret, deversurum.

Cur neque ante occurrit, ne ille in villa resideret, nec eo in loco subsedit, quo ille noctu venturus esset?

§§ 52—56. Moreover, the place of the fray was favourable to Clodius; the circumstances too were against Milo. Only the accidents of war caused Clodius to fail.

Video constare adhuc, iudices, omnia: Miloni etiam utile 52
fuisse Clodium vivere, illi ad ea quae concupierat optatissimum interitum Milonis; odium fuisse illius in hunc acerbissimum, nullum huius in illum; consuetudinem illius perpetuam in vi inferenda, huius tantum in repellenda; mortem ab illo denuntiatam Miloni et praedictam palam, nihil umquam auditum ex Milone; profectionis huius diem illi notum, reditus illius huic ignotum fuisse; huius iter necessarium, illius etiam potius alienum; hunc prae se tulisse illo die Roma exiturum, illum eo die se dissimulasse rediturum; hunc nullius rei mutasse consilium, illum causam mutandi consili finxisse; huic si insidiaretur, noctem prope urbem exspectandam, illi, etiam si hunc non timeret, tamen accessum ad urbem nocturnum fuisse metuendum.

XX. Videamus nunc id quod caput est, locus ad in- 53
sidias ille ipse ubi congressi sunt, utri tandem fuerit aptior. Id vero, iudices, etiam dubitandum et diutius cogitandum est? Ante fundum Clodi, quo in fundo propter insanas illas substructiones facile hominum mille versabantur valentium, edito adversarii atque excelso loco superiorem se fore putarat Milo et ob eam rem eum locum ad pugnam potissimum elegerat? An in eo loco est potius exspectatus ab eo, qui
ipsius loci spe facere impetum cogitarat? Res loquitur ipsa, 54
iudices, quae semper valet plurimum. Si haec non gesta audiretis, sed picta videretis, tamen appareret uter esset insidiator, uter nihil cogitaret mali, cum alter veheretur in raeda paenulatus, una sederet uxor. Quid horum non impe-

ditissimum? Vestitus an vehiculum an comes? Quid minus promptum ad pugnam, cum paenula irretitus, raeda impeditus, uxore paene constrictus esset? Videte nunc illum, primum egredientem e villa subito. Cur? Vesperi. Quid necesse est? Tarde. Qui convenit, praesertim id temporis? Devertit in villam Pompei. Pompeium ut videret? Sciebat in Alsiensi esse. Villam ut perspiceret? Miliens in ea fuerat. Quid ergo erat? Morae et tergiversationes; dum hic veniret, locum relinquere noluit.

55 XXI. Age nunc iter expediti latronis cum Milonis impedimentis comparate. Semper ille antea cum uxore, tum sine ea; numquam nisi in raeda, tum in equo; comites Graeculi, quocumque ibat, etiam cum in castra Etrusca properabat; tum nugarum in comitatu nihil. Milo, qui numquam, tum casu pueros symphoniacos uxoris ducebat et ancillarum greges; ille, qui semper secum scorta, semper exoletos, semper lupas duceret, tum neminem, nisi ut virum a viro lectum esse diceres. Cur igitur victus est? Quia non semper viator a latrone, non numquam etiam latro a viatore occiditur; quia, quamquam paratus in imparatos,
56 tamen mulier inciderat in viros. Nec vero sic erat umquam non paratus Milo, contra illum ut non satis fere esset paratus. Semper ipse et quantum interesset P. Clodi se perire et quanto illi odio esset et quantum ille auderet cogitabat. Quam ob rem vitam suam, quam maximis praemiis propositam et paene addictam sciebat, numquam in periculum sine praesidio et sine custodia proiciebat. Adde casus, adde incertos exitus pugnarum Martemque communem, qui saepe spoliantem iam et exsultantem evertit et perculit ab abiecto; adde inscitiam pransi poti oscitantis ducis, qui cum a tergo hostem interclusum reliquisset, nihil de eius extremis comitibus cogitavit, in quos incensos ira vitamque domini desperantis cum incidisset, haesit in eis

poenis, quas ab eo servi fideles pro domini vita expe-
tiverunt.

§§ 57—60. Milo admits all that his slaves could have told under torture if he had not set them free, and the testimony of the Clodian slaves is worthless.

Cur igitur eos manu misit? Metuebat scilicet ne indi- 57
caretur, ne dolorem perferre non possent, ne tormentis
cogerentur occisum esse a servis Milonis in Appia via
P. Clodium confiteri. Quid opus est tortore? Quid
quaeris? Occideritne? Occidit. Iure an iniuria? Nihil
ad tortorem; facti enim in eculeo quaestio est, iuris in
iudicio. XXII. Quod igitur in causa quaerendum est,
id agamus hic; quod tormentis invenire vis, id fatemur.
Manu vero cur miserit, si id potius quaeris, quam cur
parum amplis adfecerit praemiis, nescis inimici factum
reprehendere. Dixit enim hic idem, qui omnia semper 58
constanter et fortiter, M. Cato, et dixit in turbulenta
contione, quae tamen huius auctoritate placata est, non
libertate solum sed etiam omnibus praemiis dignissimos
fuisse, qui domini caput defendissent. Quod enim prae-
mium satis magnum est tam benevolis, tam bonis, tam
fidelibus servis, propter quos vivit? Etsi id quidem non
tanti est, quam quod propter eosdem non sanguine et
volneribus suis crudelissimi inimici mentem oculosque sa-
tiavit. Quos nisi manu misisset, tormentis etiam dedendi
fuerunt conservatores domini, ultores sceleris, defensores
necis. Hic vero nihil habet in his malis quod minus moleste
ferat quam, etiam si quid ipsi accidat, esse tamen illis meri-
tum praemium persolutum.

Sed quaestiones urgent Milonem, quae sunt habitae 59
nunc in atrio Libertatis. Quibusnam de servis? Rogas?
De P. Clodi. Quis eos postulavit? Appius. Quis pro-

duxit? Appius. Vnde? Ab Appio. Di boni! Quid potest agi severius? De servis nulla lege quaestio est in dominum (nisi de incestu, ut fuit in Clodium, qui proxime ad deos accessit, propius quam tum cum ad ipsos penetrarat, cuius de morte tamquam de caerimoniis violatis quaeritur); sed tamen maiores nostri in dominum quaeri noluerunt, non quin posset verum inveniri, sed quia videbatur indignum esse et domini morte ipsa tristius; in reum de servo accu-
60 satoris cum quaeritur, verum inveniri potest? Age vero, quae erat aut qualis quaestio? Heus tu, Rufio, verbi causa, cave sis mentiare. Clodius insidias fecit Miloni? Fecit: certa crux. Nullas fecit: sperata libertas. Quid hac quaestione certius? Subito arrepti in quaestionem tamen separantur a ceteris et in arcas coniciuntur, ne quis cum eis colloqui possit; hi centum dies penes accusatorem cum fuissent, ab eo ipso accusatore producti sunt. Quid hac quaestione dici potest integrius, quid incorruptius?

§§ 61—66. Milo's bearing then and since showed that he had a good conscience, and he has given the lie to the absurd rumours about him.

61 XXIII. Quod si nondum satis cernitis, cum res ipsa tot tam claris argumentis signisque luceat, pura mente atque integra Milonem, nullo scelere imbutum, nullo metu perterritum, nulla conscientia exanimatum Romam revertisse, recordamini, per deos immortalis, quae fuerit celeritas reditus eius, qui ingressus in forum ardente curia, quae magnitudo animi, qui voltus, quae oratio. Neque vero se populo solum, sed etiam senatui commisit, neque senatui modo, sed etiam publicis praesidiis et armis, neque his tantum, verum etiam eius potestati, cui senatus totam rem publicam, omnem Italiae pubem, cuncta populi Romani arma commiserat; cui numquam se hic profecto tradidisset,

nisi causae suae confideret, praesertim omnia audienti,
magna metuenti, multa suspicanti, non nulla credenti.
Magna vis est conscientiae, iudices, et magna in utram-
que partem, ut neque timeant qui nihil commiserint,
et poenam semper ante oculos versari putent qui pec-
carint. Neque vero sine ratione certa causa Milonis 62
semper a senatu probata est; videbant sapientissimi homi-
nes facti rationem, praesentiam animi, defensionis constan-
tiam. An vero obliti estis, iudices, recenti illi nuntio necis
Clodianae non modo inimicorum Milonis sermones et opi-
niones, sed non nullorum etiam imperitorum? Negabant
eum Romam esse rediturum. Sive enim illud animo irato 63
ac perdito fecisset, ut incensus odio trucidaret inimicum,
arbitrabantur eum tanti mortem P. Clodi putasse ut aequo
animo patria careret, cum sanguine inimici explesset odium
suum; sive etiam illius morte patriam liberare voluisset,
non dubitaturum fortem virum quin, cum suo periculo
salutem populo Romano attulisset, cederet aequo animo
legibus, secum auferret gloriam sempiternam, vobis haec
fruenda relinqueret, quae ipse servasset. Multi etiam Cati-
linam atque illa portenta loquebantur: erumpet, occupabit
aliquem locum, bellum patriae faciet. Miseros interdum
civis optime de re publica meritos, in quibus homines non
modo res praeclarissimas obliviscuntur, sed etiam nefarias
suspicantur! Ergo illa falsa fuerunt, quae certe vera exsti- 64
tissent, si Milo admisisset aliquid quod non posset honeste
vereque defendere.

XXIV. Quid quae postea sunt in eum congesta, quae
quemvis etiam mediocrium delictorum conscientia perculis-
sent, ut sustinuit, di immortales! Sustinuit? Immo vero ut
contempsit ac pro nihilo putavit quae neque maximo animo
nocens neque innocens, nisi fortissimus vir, neglegere potu-
isset. Scutorum gladiorum pilorum frenorum etiam multi-

tudo deprehendi posse indicabatur; nullum in urbe vicum, nullum angiportum esse dicebant, in quo non Miloni conducta esset domus; arma in villam Ocriculanam devecta Tiberi, domus in clivo Capitolino scutis referta, plena omnia malleolorum ad urbis incendia comparatorum; haec non delata solum, sed paene credita, nec ante repudiata sunt
65 quam quaesita. Laudabam equidem incredibilem diligentiam Cn. Pompei, sed dicam, ut sentio, iudices. Nimis multa audire coguntur, neque aliter facere possunt ei, quibus tota commissa est res publica. Quin etiam fuit audiendus popa Licinius nescio qui de circo maximo, servos Milonis apud se ebrios factos sibi confessos esse de interficiendo Pompeio coniurasse; dein postea se gladio percussum esse ab uno de illis, ne indicaret. Pompeio in hortos nuntiavit; arcessor in primis; de amicorum sententia rem defert ad senatum. Non poteram in illius mei patriaeque custodis tanta suspicione non metu exanimari, sed mirabar tamen credi popae, confessionem servorum audiri, volnus in latere, quod acu punctum videretur, pro ictu gladiatoris probari.
66 Verum, ut intellego, cavebat magis Pompeius quam timebat, non ea solum, quae timenda erant, sed omnia, ne vos aliquid timeretis. Oppugnata domus C. Caesaris, clarissimi et fortissimi viri, per multas noctis horas nuntiabatur; nemo audierat tam celebri loco, nemo senserat, tamen audiebatur. Non poteram Cn. Pompeium, praestantissima virtute virum, timidum suspicari; diligentiam tota re publica suscepta nimiam nullam putabam. Frequentissimo senatu nuper in Capitolio senator inventus est qui Milonem cum telo esse diceret. Nudavit se in sanctissimo templo, quoniam vita talis et civis et viri fidem non faciebat, ut eo tacente res ipsa loqueretur.

§§ 67—71. Pompey's suspicions are unfortunate; Milo was and is ready to be his true friend. But Pompey has taken trouble to ensure a free vote by the jury.

XXV. Omnia falsa atque insidiose ficta comperta sunt, 67
cum tamen, si metuitur etiam nunc Miloni, non iam hoc
Clodianum crimen timemus, sed tuas, Cn. Pompei (te enim
[iam] appello, et ea voce, ut me exaudire possis) tuas,
inquam, suspiciones perhorrescimus. Si Milonem times, si
hunc de tua vita nefarie aut nunc cogitare aut molitum
aliquando aliquid putas, si Italiae dilectus, ut non nulli con-
quisitores tui dictitarunt, si haec arma, si Capitolinae co-
hortes, si excubiae, si vigiliae, si delecta iuventus, quae
tuum corpus domumque custodit, contra Milonis impetum
armata est, atque illa omnia in hunc unum instituta, parata,
intenta sunt, magna in hoc certe vis et incredibilis ani-
mus et non unius viri vires atque opes iudicantur, si qui-
dem in hunc unum et praestantissimus dux electus et tota
res publica armata est. Sed quis non intellegit omnis tibi 68
rei publicae partis aegras et labantis, ut eas his armis
sanares et confirmares, esse commissas? Quod si locus
Miloni datus esset, probasset profecto tibi ipsi, neminem
umquam hominem homini cariorem fuisse quam te sibi,
nullum se umquam periculum pro tua dignitate fugisse;
cum illa ipsa taeterrima peste se saepissime pro tua gloria
contendisse; tribunatum suum ad salutem meam, quae tibi
carissima fuisset, consiliis tuis gubernatum; se a te postea
defensum in periculo capitis, adiutum in petitione prae-
turae; duos se habere semper amicissimos sperasse, te tuo
beneficio, me suo. Quae si non probaret, si tibi ita penitus
inhaesisset ista suspicio, nullo ut evelli modo posset, si
denique Italia a dilectu, urbs ab armis sine Milonis clade
numquam esset conquietura, ne iste haud dubitans cessisset

patria, is qui ita natus est et ita consuevit; te, Magne, tamen
69 ante testaretur, quod nunc etiam facit. XXVI. Vides,
quam sit varia vitae commutabilisque ratio, quam vaga volubilisque fortuna, quantae infidelitates in amicitiis, quam ad tempus aptae simulationes, quantae in periculis fugae proximorum, quantae timiditates. Erit, erit illud profecto tempus et illucescet ille aliquando dies, cum tu salutaribus, ut spero, rebus tuis, sed fortasse motu aliquo communium temporum, qui quam crebro accidat experti scire debemus, et amicissimi benevolentiam et gravissimi hominis fidem et unius post homines natos fortissimi viri magnitudinem ani-
70 mi desideres. Quamquam quis hoc credat, Cn. Pompeium, iuris publici, moris maiorum, rei denique publicae peritissimum, cum senatus ei commiserit, ut videret ne quid res publica detrimenti caperet, quo uno versiculo satis armati semper consules fuerunt etiam nullis armis datis, hunc exercitu, hunc dilectu dato iudicium exspectaturum fuisse in eius consiliis vindicandis, qui vi iudicia ipsa tolleret? Satis iudicatum est a Pompeio, satis, falso ista conferri in Milonem; qui legem tulit, qua, ut ego sentio, Milonem absolvi a vobis
71 oporteret, ut omnes confitentur, liceret. Quod vero in illo loco atque illis publicorum praesidiorum copiis circumfusus sedet, satis declarat se non terrorem inferre vobis (quid enim minus illo dignum quam cogere ut vos eum condemnetis, in quem animum advertere ipse et more maiorum et suo iure posset), sed praesidio esse, ut intellegatis contra hesternam illam contionem licere vobis quod sentiatis libere iudicare.

§§ 72–79. **If Milo had deliberately killed Clodius, and put a stop to his villanies, all the world would have applauded; and if this trial would bring Clodius back to life, it would never have been set on foot.**

72 XXVII. Nec vero me, iudices, Clodianum crimen

movet, nec tam sum demens tamque vestri sensus ignarus atque expers, ut nesciam quid de morte Clodi sentiatis. De qua si iam nollem ita diluere crimen ut dilui, tamen impune Miloni palam clamare ac mentiri gloriose liceret: Occidi, occidi, non Sp. Maelium, qui annona levanda iacturisque rei familiaris, quia nimis amplecti plebem videbatur, in suspicionem incidit regni appetendi, non Ti. Gracchum, qui collegae magistratum per seditionem abrogavit, quorum interfectores impleverunt orbem terrarum nominis sui gloria, sed eum (auderet enim dicere, cum patriam periculo suo liberasset) cuius nefandum adulterium in pulvinaribus sanctissimis nobilissimae feminae comprehenderunt; eum, cuius 73
supplicio senatus sollemnis religiones expiandas saepe censuit; eum quem cum sorore germana nefarium stuprum fecisse L. Lucullus iuratus se quaestionibus habitis dixit comperisse; eum qui civem, quem senatus, quem populus Romanus, quem omnes gentes urbis ac vitae civium conservatorem iudicarant, servorum armis exterminavit; eum qui regna dedit ademit, orbem terrarum quibuscum voluit partitus est; eum qui plurimis caedibus in foro factis singulari virtute et gloria civem domum vi et armis compulit; eum cui nihil umquam nefas fuit nec in facinore nec in libidine; eum qui aedem Nympharum incendit, ut memoriam publicam recensionis tabulis publicis impressam exstingueret; eum denique cui iam nulla lex erat, nullum civile ius, nulli 74
possessionum termini, qui non calumnia litium, non iniustis vindiciis ac sacramentis alienos fundos, sed castris, exercitu, signis inferendis petebat, qui non solum Etruscos (eos enim penitus contempserat) sed hunc P. Varium, fortissimum atque optimum civem, iudicem nostrum, pellere possessionibus armis castrisque conatus est, qui cum architectis et decempedis villas multorum hortosque peragrabat, qui Ianiculo et Alpibus spem possessionum terminarat suarum,

qui cum ab equite Romano splendido et forti, M. Paconio, non impetrasset ut sibi insulam in lacu Prilio venderet, repente lintribus in eam insulam materiam calcem caementa harenam convexit dominoque trans ripam inspectante
75 non dubitavit exstruere aedificium in alieno; qui huic T. Furfanio, cui viro, di immortales (quid enim ego de muliercula Scantia, quid de adulescente P. Apinio dicam, quorum utrique mortem est minitatus, nisi sibi hortorum possessione cessissent?), sed ausum esse T. Furfanio dicere, si sibi pecuniam quantam poposcerat non dedisset, mortuum se in domum eius illaturum, qua invidia huic esset tali viro conflagrandum; qui Appium fratrem, hominem mihi coniunctum fidissima gratia, absentem de possessione fundi deiecit, qui parietem sic per vestibulum sororis instituit ducere, sic agere fundamenta, ut sororem non modo vestibulo priva-
76 ret, sed omni aditu et limine. XXVIII. Quamquam haec quidem iam tolerabilia videbantur (etsi aequabiliter in rem publicam in privatos, in longinquos in propinquos, in alienos in suos irruebat) sed nescio quo modo iam usu obduruerat et percalluerat civitatis incredibilis patientia; quae vero aderant iam et impendebant, quonam modo ea aut depellere potuissetis aut ferre? Imperium ille si nactus esset: omitto socios, exteras nationes, reges tetrarchas; vota enim faceretis ut in eos se potius immitteret quam in vestras possessiones, vestra tecta, vestras pecunias; pecunias dico? A liberis, me dius fidius, et a coniugibus vestris numquam ille effrenatas suas libidines cohibuisset. Fingi haec putatis, quae patent, quae nota sunt omnibus, quae tenentur, servorum exercitus illum in urbe conscripturum fuisse, per quos totam rem publicam resque privatas omnium possideret?

77 Quam ob rem, si cruentum gladium tenens clamaret T. Annius: Adeste, quaeso, atque audite, cives; P. Clodium interfeci; eius furores, quos nullis iam legibus, nullis iudiciis

frenare poteramus, hoc ferro et hac dextera a cervicibus vestris reppuli, per me ut unum ius aequitas, leges libertas, pudor pudicitia in civitate manerent, esset vero timendum, quonam modo id ferret civitas! Nunc enim quis est qui non probet, qui non laudet, qui non unum post hominum memoriam T. Annium plurimum rei publicae profuisse, maxima laetitia populum Romanum, cunctam Italiam, nationes omnis adfecisse et dicat et sentiat? Non queo vetera illa populi Romani gaudia quanta fuerint iudicare; multas tamen iam summorum imperatorum clarissimas victorias aetas nostra vidit, quarum nulla neque tam diuturnam attulit laetitiam nec tantam. Mandate hoc memoriae, iudices. 78
Spero multa vos liberosque vestros in re publica bona esse visuros; in eis singulis ita semper existimabitis, vivo P. Clodio nihil eorum vos visuros fuisse. In spem maximam et, quem ad modum confido, verissimam sumus adducti, hunc ipsum annum, hoc ipso summo viro consule, compressa hominum licentia, cupiditatibus fractis, legibus et iudiciis constitutis, salutarem civitati fore. Num quis est igitur tam demens, qui hoc P. Clodio vivo contingere potuisse arbitretur? Quid? Ea, quae tenetis privata atque vestra, dominante homine furioso quod ius perpetuae possessionis habere potuissent?

XXIX. Non timeo, iudices, ne odio mearum inimicitiarum inflammatus libentius haec in illum evomere videar quam verius. Etenim, si praecipuum esse debebat, tamen ita communis erat omnium ille hostis, ut in communi odio paene aequaliter versaretur odium meum. Non potest dici satis, ne cogitari quidem, quantum in illo sceleris, quantum exiti fuerit. Quin sic attendite, iudices. Nempe haec est 79
quaestio de interitu P. Clodi; fingite animis (liberae enim sunt nostrae cogitationes et quae volunt sic intuentur, ut ea cernimus, quae videmus), fingite igitur cogitatione imaginem huius condicionis meae, si possim efficere ut Milonem ab-

solvatis, sed ita, si P. Clodius revixerit: quid voltu extimuistis? Quonam modo ille vos vivos adficeret, quos mortuus inani cogitatione percussit? Quid si ipse Cn. Pompeius, qui ea virtute ac fortuna est, ut ea potuerit semper quae nemo praeter illum, si is, inquam, potuisset aut quaestionem de morte P. Clodi ferre aut ipsum ab inferis excitare, utrum putatis potius facturum fuisse? Etiam si propter amicitiam vellet illum ab inferis avocare, propter rem publicam non fecisset. Eius igitur mortis sedetis ultores, cuius vitam si putetis per vos restitui posse, nolitis, et de eius nece lata quaestio est, qui si lege eadem reviviscere posset, lata lex numquam esset. Huius ergo interfector si esset, in confitendo ab eisne poenam timeret, quos liberavisset?

§§ 80—83. Greeks pay almost divine honours to those who slew oppressors; but if you should be thankless to Milo he will abandon his country.

80 Graeci homines deorum honores tribuunt eis viris, qui tyrannos necaverunt. Quae ego vidi Athenis, quae aliis in urbibus Graeciae! Quas res divinas talibus institutas viris, quos cantus, quae carmina! Prope ad immortalitatis et religionem et memoriam consecrantur. Vos tanti conservatorem populi, tanti sceleris ultorem non modo honoribus nullis adficietis, sed etiam ad supplicium rapi patiemini? Confiteretur, confiteretur, inquam, si fecisset, et magno animo et libenter, fecisse se libertatis omnium causa, quod esset ei non confitendum modo, verum
81 etiam praedicandum. XXX. Etenim si id non negat, ex quo nihil petit nisi ut ignoscatur, dubitaret id fateri, ex quo etiam praemia laudis essent petenda? (nisi vero gratius putat esse vobis, sui se capitis quam vestri defensorem fuisse); cum praesertim in ea confessione, si grati esse vel-

letis, honores adsequeretur amplissimos, si factum vobis
non probaretur (quamquam qui poterat salus sua cuiquam
non probari?) sed tamen, si minus fortissimi viri virtus
civibus grata cecidisset, magno animo constantique cederet
ex ingrata civitate. Nam quid esset ingratius quam laetari
ceteros, lugere eum solum, propter quem ceteri laetarentur?
Quamquam hoc animo semper omnes fuimus in patriae 82
proditoribus opprimendis, ut, quoniam nostra futura esset
gloria, periculum quoque et invidiam nostram putaremus.
Nam quae mihi ipsi tribuenda laus esset, cum tantum in
consulatu meo pro vobis ac liberis vestris ausus essem,
si id quod conabar, sine maximis dimicationibus meis me
esse ausurum arbitrarer? Quae mulier interficere scele-
ratum ac perniciosum civem non auderet, si periculum non
timeret? Proposita invidia morte poena qui nihilo segnius
rem publicam defendit, is vir vere putandus est. Populi
grati est praemiis adficere bene meritos de re publica civis,
viri fortis ne suppliciis quidem moveri ut fortiter fecisse
paeniteat. Quam ob rem uteretur eadem confessione T. 83
Annius, qua Ahala, qua Nasica, qua Opimius, qua Marius,
qua nosmet ipsi, et si grata res publica esset, laetaretur, si
ingrata, tamen in gravi fortuna conscientia sua niteretur.

§§ 83—86. The gods themselves ruined Clodius; he fell by the shrine of the Bona Dea, and his funeral was without honour.

Sed huius benefici gratiam, iudices, fortuna populi Romani et vestra felicitas et di immortales sibi deberi putant. Nec vero quisquam aliter arbitrari potest, nisi qui nullam vim esse ducit numenve divinum, quem neque imperi nostri magnitudo neque sol ille nec caeli signorumque motus nec vicissitudines rerum atque ordines movent neque, id quod maximum est, maiorum sapientia, qui sacra, qui caerimonias,

qui auspicia et ipsi sanctissime coluerunt et nobis suis
84 posteris prodiderunt. XXXI. Est, est profecto illa vis, neque in his corporibus atque in hac imbecillitate nostra inest quiddam quod vigeat et sentiat, non. inest in hoc tanto naturae tam praeclaro motu; nisi forte idcirco non putant, quia non apparet nec cernitur, proinde quasi nostram ipsam mentem, qua sapimus, qua providemus, qua haec ipsa agimus ac dicimus, videre aut plane, qualis aut ubi sit, sentire possimus. Ea vis igitur ipsa, quae saepe incredibilis huic urbi felicitates atque opes attulit, illam perniciem exstinxit ac sustulit, cui primum mentem iniecit, ut vi irritare ferroque lacessere fortissimum virum auderet vincereturque ab eo, quem si vicisset, habiturus esset im-
85 punitatem et licentiam sempiternam. Non est humano consilio, ne mediocri quidem, iudices, deorum immortalium cura res illa perfecta; religiones mehercule ipsae, quae illam beluam cadere viderunt, commovisse se videntur et ius in illo suum retinuisse. Vos enim iam, Albani tumuli atque luci, vos, inquam, imploro atque obtestor, vosque, Albanorum obrutae arae, sacrorum populi Romani sociae et aequales, quas ille praeceps amentia caesis prostratisque sanctissimis lucis substructionum insanis molibus oppresserat; vestrae tum irae, vestrae religiones viguerunt, vestra vis valuit, quam ille omni scelere polluerat; tuque ex tuo edito monte, Latiaris sancte Iuppiter, cuius ille lacus, nemora finisque saepe omni nefario stupro et scelere macularat, aliquando ad eum poeniendum oculos aperuisti; vobis illae, vobis vestro in conspectu serae, sed iustae tamen et debitae
86 poenae solutae sunt. Nisi forte hoc etiam casu factum esse dicemus, ut ante ipsum sacrarium Bonae Deae, quod est in fundo T. Sergi Galli, in primis honesti et ornati adulescentis, ante ipsam, inquam, Bonam Deam, cum proelium commisisset, primum illud volnus acciperet, quo

taeterrimam mortem obiret, ut non absolutus iudicio illo nefario videretur, sed ad hanc insignem poenam reservatus. XXXII. Nec vero non eadem ira deorum hanc eius satellitibus iniecit amentiam, ut sine imaginibus, sine cantu atque ludis, sine exsequiis, sine lamentis, sine laudationibus, sine funere, oblitus cruore et luto, spoliatus illius supremi diei celebritate, cui cedere inimici etiam solent, ambureretur abiectus. Non fuisse credo fas clarissimorum virorum formas illi taeterrimo parricidae aliquid decoris adferre, neque ullo in loco potius mortem eius lacerari, quam in quo esset vita damnata.

§§ 87—91. The ruin of the country would have been complete had not Clodius died.

Dura, me dius fidius, mihi iam fortuna populi Romani 87
et crudelis videbatur, quae tot annos illum in hanc rem
publicam insultare pateretur. Polluerat stupro sanctissimas
religiones, senatus gravissima decreta perfregerat, pecunia
se a iudicibus palam redemerat, vexarat in tribunatu
senatum, omnium ordinum consensu pro salute rei publicae
gesta resciderat, me patria expulerat, bona diripuerat,
domum incenderat, liberos, coniugem meam vexarat, Cn.
Pompeio nefarium bellum indixerat, magistratuum privato-
rumque caedis effecerat, domum mei fratris incenderat,
vastarat Etruriam, multos sedibus ac fortunis eiecerat;
instabat urgebat; capere eius amentiam civitas Italia, pro-
vinciae regna non poterant; incidebantur iam domi leges,
quae nos servis nostris addicerent; nihil erat cuiusquam,
quod quidem ille adamasset, quod non hoc anno suum fore
putaret. Obstabat eius cogitationibus nemo praeter Mi- 88
lonem. Illum ipsum, qui poterat obstare, novo reditu in
gratiam quasi devinctum arbitrabatur; Caesaris potentiam
suam esse dicebat; bonorum animos in meo casu contemp-

serat; Milo unus urgebat. XXXIII. Hic di immortales, ut supra dixi, mentem illi perdito ac furioso dederunt, ut huic faceret insidias. Aliter perire pestis illa non potuit; numquam illum res publica suo iure esset ulta. Senatus, credo, praetorem eum circumscripsisset. Ne cum solebat quidem id facere, in privato eodem hoc aliquid profecerat.
89 An consules in praetore coercendo fortes fuissent? Primum Milone occiso habuisset suos consules; deinde quis in eo praetore consul fortis esset, per quem tribunum virtutem consularem crudelissime vexatam esse meminisset? Oppressisset omnia, possideret, teneret; lege nova, quae est inventa apud eum cum reliquis legibus Clodianis, servos nostros libertos suos fecisset; postremo, nisi eum di immortales in eam mentem impulissent ut homo effeminatus fortissimum virum conaretur occidere, hodie rem publicam
90 nullam haberetis. An ille praetor, ille vero consul, si modo haec templa atque ipsa moenia stare eo vivo tam diu et consulatum eius exspectare potuissent, ille denique vivos mali nihil fecisset, qui mortuus uno ex suis satellitibus duce curiam incenderit? Quo quid miserius, quid acerbius, quid luctuosius vidimus? Templum sanctitatis amplitudinis, mentis consili publici, caput urbis, aram sociorum, portum omnium gentium, sedem ab universo populo concessam uni ordini, inflammari exscindi funestari, neque id fieri a multitudine imperita, quamquam esset miserum id ipsum, sed ab uno! Qui cum tantum ausus sit ustor pro mortuo, quid signifer pro vivo non esset ausus? In curiam potissimum abiecit, ut eam mortuus incenderet, quam vivos
91 everterat. Et sunt qui de via Appia querantur, taceant de curia, et qui ab eo spirante forum putent potuisse defendi, cuius non restiterit cadaveri curia! Excitate, excitate ipsum, si potestis, a mortuis; frangetis impetum vivi, cuius vix sustinetis furias insepulti? Nisi vero sustinuistis eos, qui cum

facibus ad curiam cucurrerunt, cum falcibus ad Castoris, cum gladiis toto foro volitarunt. Caedi vidistis populum Romanum, contionem gladiis disturbari, cum audiretur silentio M. Caelius tribunus plebis, vir et in re publica fortissimus et in suscepta causa firmissimus et bonorum voluntati et auctoritati senatus deditus et in hac Milonis sive invidia sive fortuna singulari divina et incredibili fide.

§§ 92–102. I appeal for your pity, though Milo does not ask it for himself; being content with a good conscience.

XXXIV. Sed iam satis multa de causa, extra causam 92
etiam nimis fortasse multa. Quid restat nisi ut orem obtesterque vos, iudices, ut eam misericordiam tribuatis fortissimo viro, quam ipse non implorat, ego etiam repugnante hoc et imploro et exposco? Nolite, si in nostro omnium fletu nullam lacrimam adspexistis Milonis, si voltum semper eundem, si vocem, si orationem stabilem ac non mutatam videtis, hoc minus ei parcere; haud scio an multo sit etiam adiuvandus magis. Etenim si in gladiatoriis pugnis et in infimi generis hominum condicione atque fortuna timidos atque supplices et ut vivere liceat obsecrantis etiam odisse solemus, fortis atque animosos et se acriter ipsos morti offerentis servare cupimus, eorumque nos magis miseret, qui nostram misericordiam non requirunt, quam qui illam efflagitant, quanto hoc magis in fortissimis civibus facere
debemus! Me quidem, iudices, exanimant et interimunt 93
hae voces Milonis, quas audio adsidue et quibus intersum cotidie. Valeant, inquit, valeant cives mei; sint incolumes, sint florentes, sint beati; stet haec urbs praeclara mihique patria carissima, quoquo modo erit merita de me; tranquilla re publica mei cives, quoniam mihi cum illis non licet, sine me ipsi, sed propter me tamen perfruantur; ego cedam atque abibo; si mihi bona re publica frui non

licuerit, at carebo mala, et quam primum tetigero bene
94 moratam et liberam civitatem, in ea conquiescam. O frustra, inquit, mihi suscepti labores! O spes fallaces et cogitationes inanes meae! Ego cum tribunus plebis re publica oppressa me senatui dedissem, quem exstinctum acceperam, equitibus Romanis, quorum vires erant debiles, bonis viris, qui omnem auctoritatem Clodianis armis abiecerant, mihi umquam bonorum praesidium defuturum putarem? Ego cum te (mecum enim saepissime loquitur) patriae reddidissem, mihi putarem in patria non futurum locum? Vbi nunc senatus est, quem secuti sumus, ubi equites Romani illi, illi, inquit, tui, ubi studia municipiorum, ubi Italiae voces, ubi denique tua illa, M. Tulli, quae plurimis fuit auxilio, vox atque defensio? Mihine ea soli, qui pro te
95 totiens morti me obtuli, nihil potest opitulari? XXXV. Nec vero haec, iudices, ut ego nunc, flens, sed hoc eodem loquitur voltu, quo videtis. Negat enim se, negat ingratis civibus fecisse quae fecerit, timidis et omnia pericula circumspicientibus non negat. Plebem et infimam multitudinem, quae P. Clodio duce fortunis vestris imminebat, eam, quo tutior esset vestra vita, se fecisse commemorat ut non modo virtute flecteret, sed etiam tribus suis patrimoniis deleniret, nec timet ne, cum plebem muneribus placarit, vos non conciliarit meritis in rem publicam singularibus. Senatus erga se benevolentiam temporibus his ipsis saepe esse perspectam, vestras vero et vestrorum ordinum occursationes studia sermones, quemcumque cursum fortuna dederit, se
96 secum ablaturum esse dicit. Meminit etiam vocem sibi praeconis modo defuisse, quam minime desiderarit, populi vero cunctis suffragiis, quod unum cupierit, se consulem declaratum; nunc denique, si haec contra se sint futura, sibi facinoris suspicionem, non facti crimen obstare. Addit haec, quae certe vera sunt, fortis et sapientis viros non tam praemia

sequi solere recte factorum quam ipsa recte facta; se nihil
in vita nisi praeclarissime fecisse, si quidem nihil sit prae-
stabilius viro quam periculis patriam liberare; beatos esse
quibus ea res honori fuerit a suis civibus, nec tamen eos
miseros, qui beneficio civis suos vicerint; sed tamen ex 97
omnibus praemiis virtutis, si esset habenda ratio praemi-
orum, amplissimum esse praemium gloriam; esse hanc
unam, quae brevitatem vitae posteritatis memoria consola-
retur, quae efficeret ut absentes adessemus, mortui vive-
remus; hanc denique esse, cuius gradibus etiam in caelum
homines viderentur adscendere. De me, inquit, semper 98
populus Romanus, semper omnes gentes loquentur, nulla
umquam obmutescet vetustas. Quin hoc tempore ipso,
cum omnes a meis inimicis faces invidiae meae subiciantur,
tamen omni in hominum coetu gratiis agendis et gratula-
tionibus habendis et omni sermone celebramur. Omitto
Etruriae festos et actos et institutos dies; centesima lux est
haec ab interitu P. Clodi et, opinor, altera; qua fines
imperi populi Romani sunt, ea non solum fama iam de
illo, sed etiam laetitia peragravit. Quam ob rem, ubi corpus
hoc sit, non, inquit, laboro, quoniam omnibus in terris et
iam versatur et semper habitabit nominis mei gloria.

XXXVI. Haec tu mecum saepe his absentibus, sed 99
isdem audientibus haec ego tecum, Milo: te quidem, cum
isto animo es, satis laudare non possum, sed, quo est ista
magis divina virtus, eo maiore a te dolore divellor. Nec
vero, si mihi eriperis, reliqua est illa tamen ad consolandum
querella, ut eis irasci possim, a quibus tantum volnus acce-
pero; non enim inimici mei te mihi eripient, sed amicissimi,
non male aliquando de me meriti, sed semper optime.
Nullum mihi umquam, iudices, tantum dolorem inuretis
(etsi quis potest esse tantus?) sed ne hunc quidem ipsum,
ut obliviscar quanti me semper feceritis. Quae si vos

cepit oblivio aut si in me aliquid offendistis, cur non id meo
capite potius luitur quam Milonis? Praeclare enim vixero,
si quid mihi acciderit, priusquam hoc tantum mali videro.
100 Nunc me una consolatio sustentat, quod tibi, T. Anni,
nullum a me amoris, nullum studi, nullum pietatis officium
defuit. Ego inimicitias potentium pro te appetivi, ego
meum saepe corpus et vitam obieci armis inimicorum tuo-
rum, ego me plurimis pro te supplicem abieci, bona for-
tunas meas ac liberorum meorum in communionem tuorum
temporum contuli; hoc denique ipso die, si quae vis est
parata, si quae dimicatio capitis futura, deposco. Quid
iam restat? Quid habeo quod faciam pro tuis in me
meritis, nisi ut eam fortunam, quaecumque erit tua, ducam
meam? Non abnuo, non recuso, vosque obsecro, iudices,
ut vestra beneficia, quae in me contulistis, aut in huius
salute augeatis aut in eiusdem exitio occasura esse videatis.
101 XXXVII. His lacrimis non movetur Milo; est quodam
incredibili robore animi; exsilium ibi esse putat, ubi vir-
tuti non sit locus; mortem naturae finem esse, non poenam.
Sed hic ea mente qua natus est; quid vos, iudices, quo
tandem animo eritis? Memoriam Milonis retinebitis, ipsum
eicietis? Et erit dignior locus ullus in terris qui hanc vir-
tutem excipiat, quam hic qui procreavit? Vos, vos appello,
fortissimi viri, qui multum pro re publica sanguinem effu-
distis; vos in viri fortis et in civis invicti periculo appello,
centuriones, vosque, milites; vobis non modo inspectan-
tibus, sed etiam armatis et huic iudicio praesidentibus haec
tanta virtus ex hac urbe expelletur exterminabitur proi-
102 cietur? O me miserum, o me infelicem! Revocare tu me
in patriam, Milo, potuisti per hos, ego te in patria per
eosdem retinere non potero? Quid respondebo liberis
meis, qui te parentem alterum putant? Quid tibi, Quinte
frater, qui nunc abes, consorti mecum temporum illorum?

Mene non potuisse Milonis salutem tueri per eosdem, per quos nostram ille servasset? At in qua causa non potuisse? Quae est grata gentibus omnibus. At quibus iudicantibus non potuisse? Eis, qui maxime P. Clodi morte acquierunt. Quo deprecante? Me. Quodnam ego concepi tantum 103
scelus aut quod in me tantum facinus admisi, iudices, cum illa indicia communis exiti indagavi patefeci protuli exstinxi? Omnes in me meosque redundant ex fonte illo dolores. Quid me reducem esse voluistis? An ut inspectante me expellerentur ei, per quos essem restitutus? Nolite, obsecro vos, acerbiorem mihi pati reditum esse, quam fuerit ille ipse discessus; nam qui possum putare me restitutum esse, si distrahar ab eis, per quos restitutus sum? XXXVIII. Vtinam di immortales fecissent (pace tua, patria, dixerim; metuo enim ne scelerate dicam in te, quod pro Milone dicam pie) utinam P. Clodius non modo viveret, sed etiam praetor consul dictator esset potius quam hoc spectaculum viderem! O di immortales, fortem et a vobis, 104
iudices, conservandum virum! Minime, minime, inquit; immo vero poenas ille debitas luerit; nos subeamus, si ita necesse est, non debitas. Hicine vir patriae natus usquam nisi in patria morietur aut, si forte, pro patria? Huius vos animi monumenta retinebitis, corporis in Italia nullum sepulcrum esse patiemini? Hunc sua quisquam sententia ex hac urbe expellet, quem omnes urbes expulsum a vobis ad se vocabunt? O terram illam beatam, quae hunc virum 105
exceperit, hanc ingratam, si eiecerit, miseram, si amiserit! Sed finis sit; neque enim prae lacrimis iam loqui possum, et hic se lacrimis defendi vetat. Vos oro obtestorque, iudices, ut in sententiis ferendis, quod sentietis, id audeatis. Vestram virtutem iustitiam fidem, mihi credite, is maxime probabit, qui in iudicibus legendis optimum et sapientissimum et fortissimum quemque legit.

NOTES.

§ 1. P. 25.

1 **etsi vereor** etc.: for the characteristics of the exordium to the speech, see Appendix B. Note that, like *tamen* and *quamquam*, *etsi* in Cic. goes with the indicative, and if the sentence contains a subjunctive there must be some other reason for it, such as *oratio obliqua*, real or virtual. We have in this speech ten examples of *etsi*, all with indic. On the other hand there are six instances of *etiam si*, five with subj. and one (14, l. 15) with ind.

turpe sit...incipientem d.: this is put as a general principle ("it is disgraceful for any one") which is applied to Cicero's case by the words *minimeque deceat...me*.

2 **T. Annius**: Cic. so names his client in five other passages of the speech (6, l. 8; 77, ll. 31 and 6; 83, l. 19; 100, l. 4) and sometimes elsewhere; but in more than a hundred places he calls him *Milo*, using a less formal style. On the other hand the name *Clodius* is as a rule only employed by itself when the name *Milo* occurs near to it, so that the one form is assimilated to the other.

5 **novi iudici nova forma**: for the emphatic repetition of the adjective cf. Verr. 2, 5, 178 *lege nova novi iudices;* Pro Sest. 89 *nova novi generis edicta;* De Fin. 3, 3 *imponendaque nova rebus novis nomina;* N. D. 1, 44; Tusc. 1, 109 *virtutis perfectae perfecto functus est munere.*

iudici: for this form of the genit. see Appendix C.

6 **quocumque inciderunt...requirunt**: so Pro Scaur. 46 *suppeditat... quod dicam quocumque...oculi inciderunt.* The linking of the perfect tense with the present is unlike our idiom, which would require two presents. It is quite certain that *quicumque*, *quocumque* (to which we may add *quisquis*), were not used by Cic. with subj. If a subj. follows, the reason for it does not lie in the words themselves. Therefore the reading *inciderint* in the passage quoted from Pro Scaur. above is wrong.

consuetudinem fori: this phrase and *pristinum morem iudiciorum* have practically the same meaning, and the passage illustrates Cicero's tendency to repeat his matter in varied language. Many similar passages may be noticed in the speech; see e.g. 34, l. 27; 35, l. 5.

7 **requirunt**: this word, as often, has the sense of *desiderant* "yearn after."

§ 2.

corona: the metaphor in our "ring" as applied to people is much the same. The poet Lucan had this passage in mind when he wrote (1, 319): *Quis castra timenti | nescit mixta foro? gladii cum triste minantes | iudicium insolita trepidum cinxere corona | atque ausi medias perrumpere milite leges | Pompeiana reum cinxerunt signa Milonem.*

consessus vester: "your benches"; cf. the concrete use of *conventus* of a mass of people assembled together.

8 **cinctus est...stipati sumus...saepti sumus**: here, as often, the passive participle has become almost an adjective, and when joined with *sum* forms no true perfect tense, but indicates a state of things existing in the present. The force of *incitati sunt* in 3, l. 14 is very different.

stipati sumus: Cic. passes from the second person to the first, in order to insinuate that the jury share his alarm. So 4, l. 21.

9 **nec illa...non adferunt**: so *neque non* in 3, l. 7 and 8, l. 6; cf. 21, l. 18; 65, l. 16. For the reading see crit. n. (App. C).

pro templis: this might mean "in front of the temples" i.e. quite outside them; but the sense more probably is (literally) "in the front parts of the temples." Thus a man who speaks standing on the *rostra* is said *pro rostris dicere*, and *pro muris* is said of soldiers fighting *on* a wall, and *pro tribunali* of a magistrate seated *on* a *tribunal*. So in Tac. An. 15, 5 *pro Syria* is used of legions within Syria, but on its borders. In the turbulent times of the late Republic, the temples round the *forum* (particularly that of Castor) were frequently used as strongholds.

10 **aliquid quo...possimus**: for readings see App. C.

ut in foro et in iudicio: "considering that we are in the forum and before a court." Parenthetic clauses with *ut* are very common in Cic.

11 **quamquam...saepti sumus**: after *praesidia* above, *quamquam salutaria sunt et necessaria* would have been simpler.

12 **timere sine aliquo timore**: an example of the form of speech called oxymoron (literally "clever-foolish"). *Mentiri gloriose* in 72, l. 4 is somewhat similar; see n. there.

13 **si opposita putarem**: the omission of *esse* is usual with verbs of thinking, speaking and the like. Pompey was notoriously at this time opposed to Milo, and the citizens might well think that the troops were posted to secure Milo's conviction.

14 **cederem tempori**: "I should bow to the storm." *Tempus* is often applied, like καιρός, to a critical or important moment. So Ad Fam. 4, 9, 2 *tempori cedere, id est necessitati parere;* and below, 16, l. 13.

tantam vim armorum: "such a powerful force"; so Sall. Cat. 48, 5 *tanta vis hominis* "such a powerful man." Similar concrete uses of abstract words are common both in Greek and in Latin; cf. 2, p. 26, l. 1 *temeritatem concitatae multitudinis* "a reckless and excited crowd"; 3, l. 13 *P. Clodi furor* "that madman P. Clodius"; also 3, l. 10 *virtuti Milonis.* The subtlety of *tantam vim* after *contra vim* in l. 10 should be remarked.

15 **locum**: if the endings of sentences or of clauses followed by one of the longer stops which occur in the course of the speech be examined, it will be seen that in about three instances out of four, the concluding word is a verb; and this is about the usual proportion throughout Cicero's writings. A word placed at the end of a sentence naturally strikes the attention more than another, and if it be not in some way emphatic, the sentence will be felt to end weakly. The verb has usually most emphasis thrown upon it, and therefore it naturally falls into the last place. Next to the verb, a substantive most frequently ends the sentence. In writing prose composition the student should avoid concluding with an adjective or an adverb unless the sense allows a special stress to be laid upon it. What has been said about the endings of prose sentences may almost equally be said about the endings of lines of verse.

recreat et reficit: the two verbs occur together elsewhere, as Pro Planc. 2. Cic. is particularly fond of pairing in this way words of almost identical meaning. So below, 42, l. 4; 43, l. 6. Some such pairs occur so frequently, not only in Cic. but in other authors, that they may be regarded as fixed expressions of the Latin language; for example, *emendare et corrigere* and *liber et solutus.* Cf. 6, l. 15 n.; 39, l. 26 n.

16 **sapientissimi...iustissimi...iustitiae...sapientiae**: an example of *chiasmus*, whereby four words, consisting of two pairs, which we may denote by *AA'* and *BB'*, are arranged in the order *ABB'A'*. The word *chiasmus* is connected with the Greek letter χ, and indicates a "cross arrangement." Cicero's fondness for this form may be seen from the

following list of exx. from the speech (not a complete list): 4, l. 23 (where *re* corresponds to *verbis*, *voltu* to *sententiis*); 19, l. 21; 21, l. 4; 22, l. 22; 30, ll. 13, 14; 35, ll. 6, 7; 36, ll. 20, 21; 39, ll. 25, 26; 40, l. 25; 42, p. 41, ll. 32, 33; 45, ll. 5, 6; 64, ll. 30, 31. Chiasmus is of course often avoided as at 26, l. 31; 30, l. 13; 35, ll. 4, 5; 43, l. 12.

consilium: this may mean either "purpose" or "prudence." The latter meaning is the more probable.

17 **putaret esse**: the infinitive ends the clause because emphasis is thrown on it.

P. 26.

1 **temeritatem** etc.: here, as often, Cic. insinuates that the mob which was opposed to his client consisted of aliens or slaves. *Concitata multitudo* is contrasted with *reliqua multitudo* in l. 6.

2 **auctoritate...armare**: for the metaphor cf. Pro Sest. 24 *cum consulatus...tamquam gladius esset datus.*

§ 3.

arma: the soldiers had no doubt "piled arms."

4 **denuntiant**: this verb is ordinarily used of any formal notice served on any one in connexion with a trial, whether civil or criminal. So *denuntiare testimonium alicui* "to serve a subpoena." The notice is usually hostile, but not always; hence we need not say there is zeugma here because *denuntiant* is applied alike to the danger and to the protection from it.

neque...simus: "and to show not merely a resigned, but a courageous spirit."

6 **pollicentur**: while *promittere* is used of promises generally, *polliceri* applies to promises eagerly or readily made; cf. Pro Planc. 101 *nihil tum de meis opibus pollicebar, sed de horum erga me benevolentia promittebam.*

7 **quae quidem est**: the clause is merely descriptive: "I mean that portion of it which consists of citizens." With *sit* it would be restrictive: "in so far as it consists of citizens." Roby § 1692.

tota nostra est: "is entirely on our side." For *tota* thus strongly adverbial, cf. Quint. 10, 1, 93 *satira tota nostra est.*

8 **undique intuentis unde...adspici**: *undique* here means "*from* everywhere," just as *intus* sometimes means "from within" (ἔντοσθεν), as well as "within"; and *nusquam* is used to express "no whither" as well as "nowhere."

9 **huius exitum iudici**: when a pronoun and a noun are either in agreement with one another, or one of them is dependent on the other, Cic. often separates the two by just one word, as here. See n. on Pro Arch. 4 (Pitt Press ed.).

11 **fortunis**: at first sight the word seems to give an "anti-climax" after *patria;* nor is this to be got over by saying (as some edd. do say) that *fortunis* is equivalent to *fort. rei publicae.* But in Cic. *fortunae* often has a wider sense than that of mere "possessions"; it may well mean "all that is precious to a man," and may here sum up *se, liberis, patria.* Cf. Pro Planc. 79 *agitur Cn. Planci salus patria fortunae.*

hodierno die: rather more emphatic than *hodie;* so *hesterno die* for *heri* and *crastino die* for *cras.* Cic. rarely uses *hodiernus* with any other word than *dies.* Observe that *hodierno die* is not used in Latin with the sense of "to-day" when the meaning is "in our time," though *hodie* does occur with that sense.

12 **unum**: very emphatic, as is indicated by its position at the beginning of the sentence: "one and only one."

eorum: "it consists of those." For this explanatory gen. after *genus*, where in English we should pause and begin a new clause or sentence, cf. Off. 1, 119 *illud...maxime rarum genus est eorum qui....*

13 **rapinis...exitiis**: the ablatives are instrumental: the robberies and arsons and ruin of every kind inflicted on the commonwealth enabled him to maintain both the bodies and the spirits of his crew. Speaking of this same crew Cic. says in Pro Sest. 99: *qui discordiis civium et seditione pascantur*, and ib. 78: *qui ab illo pestifero civi...rei publicae sanguine saginantur.*

omnibus: here=*summis*, as in the phrase *omni supplicio* (De Amic. 43).

exitiis publicis: an exaggerated phrase like *funera rei publicae* in Pro Sest. 88. Halm quotes Sall. orat. Lep. 25 *maxima turbamenta rei publicae atque exitia;* cf. too De Leg. 1, 34 *caput esse exitiorum omnium* (of the tribunate).

14 **etiam**: "actually"; not, "even now," as suggested by some edd. That is a sense in which Cic. does use *etiam*, but a negative always precedes as in *nondum etiam, nihildum etiam* and occasionally *non etiam* (Tusc. 1, 12).

15 **praeirent**: only here in Cic. of dictating a form of words. Livy and later writers use *praeire* with an accusative, as *verba, sacramentum.*

quid iudicaretis: "what decision you were to give." Since the decision was still to come, *iudicetis* might have been substituted for

iudicaretis; but it is rather more usual to assimilate the tense of the subordinate to that of the principal verb. Cf. 15, l. 9; 34, l. 30 (*metueretis*).

si qui: it might be expected that *si qui* and *si quis* would be kept quite distinct from each other, the former being adjectival, the latter substantival. In that case *si quis* would have been found only in connexion with nouns denoting persons (*si quis* being in apposition with the noun, like *nemo* with *homo* in the phrase *nemo homo*), and *si qui* only with common nouns. But the MSS. often give *si quis* with common nouns, and *si qui* with personal nouns; and the instances are too numerous to be accounted for by supposing corruption in the MSS. Cf. 17, l. 28.

17 **retineatis**: sc. *in re publica;* see Introd. § 19.

clamoresque maximos: "and their loudest uproar." *Magnus* is the only word in Latin which corresponds to our "loud," used of sound.

18 **prae**: see crit. n. (App. C).

§ 4.

adeste animis: see App. B. "Be of good courage," as in Rep. 6, 10 *ades animo et omitte timorem. Animis* is of course ablative, not dative. In Pro Sull. 33 *adeste animis*, as often, the sense merely is "give me your attention."

19 **si quem**: a little less definite than *quem* would have been: "*any* fear you feel," as opposed to "*the* fear."

21 **si denique** etc.: Cic. first says: "if *you* (the men I see before me) ever had power given for pronouncing sentence touching good and brave men, and deserving citizens"; then he goes a step farther, and says "if ever *any* of the body of *iudices* had an opportunity for announcing by deed and vote their sympathy for brave and good citizens, which they had often hinted by look and by word." The second assumption expands the first. Stress is laid on *potestas*, which is followed up by *eam potestatem omnem.* Cic. is impressing on the jury the idea that their votes are perfectly free.

22 **amplissimorum ordinum**: see Introd. § 13; and cf. Pro Mur. 83 *delecti...amplissimis ex ordinibus viri.*

23 **voltu** etc.: see n. on 2, l. 16 *sapientissimi.*

25 **eam...statuatis**: "you have the power to the fullest extent of deciding."

26 **nos**: Cic. identifies his interests with those of Milo; cf. 5, l. 29 *nobis duobus*.

vestrae auctoritati: "your influence." It is not quite certain whether Cic. means by *vestrae* the influence of the *courts*, or the influence of the *classes* from which the jurymen were drawn. Probably the former interpretation is correct. The supporters of Clodius are supposed to be hostile to the law and its administration.

dediti fuimus: writers who have discussed the difference in meaning between *amatus sum* and *amatus fui* have often supposed *amatus fui* to imply that the experience of being loved existed for a period in time past, but has ceased to exist at the time of speaking or writing. [See especially Madvig, Opuscula ed. II. p. 576 sq.] But in the present passage Cic. means not merely that he and Milo have been devoted to the cause of law and order in the past, but that they are so still. It cannot be said that *semper* here is added because the tense itself could not give the idea of continuance at the time of writing; an idea which is conveyed by the tense alone in other passages, such as Ad Fam. 1, 7, 9 *ut omnem gloriam ad quam a puero inflammatus fuisti, omni cura atque industria consequare*. The distinction between *amatus sum* and *amatus fui* is rather this, that the latter form lays more stress than the former on the *existence in past time* of the experience of being loved; while the question whether that experience exists still at the time of speaking or writing, depends entirely on the context. The maxim sometimes laid down, that *amatus fui* is not used as the perfect passive of the "state" as opposed to "the act" (Roby, § 1453), seems inconsistent with a certain number of passages.

27 **lugeamus...recreemur**: for the form of the passage cf. Att. 2, 6, 2 *vide ecquae sit spes denari an cistophoro Pompeiano iaceamus*.

28 **fidem virtutem sapientiamque**: in an enumeration consisting of more than two words, where the earlier words are not introduced by copulative conjunctions, *que* may be placed after the last as here, but the last word and the last but one cannot be connected by *et*, *ac* or *atque*.

§ 5.

29 **quid...laboriosius**: we should say "*who* is more plunged in distress?" but the neuter expression is often preferred in Latin; as below 54, l. 1. So Cic. says (of a lady) in Ad Att. 12, 11: *nihil vidi foedius*. Note the change to *magis sollicitum*, *magis exercitum*; Cic. could not write *sollicitius* or *exercitius*, which are later than his time.

nobis duobus: see crit. n. in App. C.

30 **exercitum**: "harassed"; cf. Suet. Tib. 6 *infantiam pueritiamque habuit laboriosam atque exercitam* (of the emperor Tiberius). On the other hand *exercitatus* in Cicero's time meant "experienced," though later writers (as Tacitus) gave it the sense of *exercitus*.

31 **dici aut fingi**: "said or imagined": so De Fin. 1, 41 *quid eo miserius dici aut fingi potest?*

ad...adducti: "lured into our country's service."

33 **ceteras** etc.: "storms of all other kinds" are contrasted with the perilous "storm" which is sometimes met with in a court (l. 3 *in iudicio vero*), to which Cic. gives the name *iniqui iudici procella* in Pro Sest. 140. The use of *ceterus* and *alius* where their sense is made clear by what comes after (a "proleptic" use) does not accord with English idiom, but is common in Latin. See n. on De Amicitia 7, in the Pitt Press ed.

P. 27.

1 **dumtaxat**: always an adverb in Latin, not a conjunction. Cicero employs the word far oftener than any other extant Latin writer. He has it in 30 or 40 passages, whereas in Caesar it only occurs once, and in Livy two or three times. Its ordinary use is to point out a concession which the writer makes or expects to be made to him. In all the Ciceronian examples the meaning may be given by "certainly" or "at all events," and there is no passage where *sane* might not be substituted without affecting the sense. [For *sane* see n. on § 30, l. 9.] *Dumtaxat* seems to be of legal origin; for its derivation see n. on De Amicitia 53 (Pitt Press ed.). Its earliest use is in statutes which authorise a magistrate to inflict a fine, *dumtaxat* introducing the amount of the fine in the genitive case, "provided he assesses it at so much." The word is rare in verse; Horace has it twice, Lucretius a few times.

contionum: Quintilian 8, 6, 48 notes that the introduction of this word brings Cicero's metaphors into touch with reality.

2 **bonis**: constantly used by Cic. in a political sense (like ἀγαθοί in the Greek Lyric poets) to indicate the party of the *optimates*, which word in itself involves a similar use of *optimus*. Cf. *boni...improbi* in § 32, l. 7.

3 **senserat**: *sentire* means not only to *hold* an opinion, but also to *express* it, as here; see my n. on Academ. 1, 23.

consilio: here "jury." The word is applied to any body of advisers, *·lic or private.* The jury are in theory the advisers of the judge, who

must have been supreme in the earliest days. So the senate is often called *consilium*, being in theory a gathering of advisers to the consuls.

4 **cunctis**: it is rather strange to find this word applied to the classes which are called *amplissimi* in 4, l. 22 and *florentissimi* in 21, l. 8. For these *ordines* cf. Introd. p. 19, and for reading, crit. n. in App. C.

5 **spem...ad**: a rare construction; probably adopted in place of the genitive because genitives close to *inimicos* would have been inelegant, if not ambiguous. Where *ad* with the accusative replaces the genitive some such motive is usually at work. Thus in Ad Att. 15, 20, 2 *tantum spei habere ad vivendum*, a second genitive *vivendi* would have been obviously awkward; and in Pro Sest. 42 Cic. writes *auctores ad perniciem meam* because the gen. of *pernicies* was not in use. Observe that the preposition is not repeated with *gloriam;* for this see n. on 10, l. 32.

6 **non modo...sed etiam**: "not merely...but even." So in 42, l. 32.

salutem: here, as often (like *caput*), of civil rights, which were at stake; see Introd. p. 23, and cf. 38, l. 19. Similarly *incolumis* is often applied to one who has escaped from a criminal trial.

7 **talis viros**: a phrase often used by Cic. in his speeches of the jury. The insertion of *per talis viros* here after *sed etiam* is curious, since the description of the jury given before applies both to the clause with *non modo* and to that with *sed etiam.*

§ 6.

quamquam: "and yet" (like καίτοι) as in 70, l. 12; 76, l. 16; 82, l. 7. There is a similar use of *etsi* at the beginning of a sentence (11, l. 4), but not of *quamvis.*

8 **rebusque...gestis**: "the fact that everything he did was to keep his country from harm."

9 **criminis**: objective genitive; "defence against this charge"; as 58, l. 23 *defensores necis.*

abutemur: in the Latin of the Ciceronian period *abuti* never *in itself* means "to abuse," but only "to use to the utmost," "to use up." But the *context* sometimes leads up to the meaning "to abuse," as e.g. in Pro S. Rosc. 54 *legibus...abuti ad quaestum ac libidinem.*

10 **nisi oculis videritis**: a strong expression; elsewhere Cic. employs modified phrases like *tamquam oculis videre*, or *oculis paene videre*, or *cernere oculis videri.* Cf. Pro S. Rosc. 98 *non versatur ante oculos vobis in caede Glaucia?*

11 **ut crimen...condonetis**: lit. "to make me a present of the charge."

i.e. "to acquit my client as a personal favour to me" (*nobis* here = *mihi*). So Vatinius ap. Ad Fam. 5, 10 a, 2 *supplicium...tibi condono:* "I make you a present of the man's punishment," i.e. "I let the man off his punishment on account of your intercession."

13 **salus vestra fuerit**: not much different from *saluti vobis fuerit*, but a little stronger. Any predicative dative may be replaced by the nominative in this way; see Roby, Gram. II. p. xxix.

eam...adsignetis: "that you should give the credit for it to Milo's valour rather than to the good fortune of the Roman nation." That is to say: "I will not ask you to believe that the death of Clodius was a boon purposely conferred by Milo on the Romans; it was rather an instance of the good fortune which attends on the nation."

14 **sin**: "if however"; the word is usually, but not always, preceded by *si*. "If" here is equivalent to "when," as is shown by *tum* in the next line. This is common in Latin; a very frequent form of expression is *dicam si prius dixero;* cf. my n. on Academ. 2, 64. (For reading see crit. n. in App. C.)

felicitati: 20, l. 25 *rei publicae fortuna;* 83, l. 23.

15 **clariores hac luce**: "clearer than daylight," where we should say "as clear as daylight." In speaking of the sun or the daylight, a demonstrative pronoun (as *hac* here) is often attached to the noun; so In Catil. 4, 16 *lux haec ipsa*, and *sol ille* "yon sun," "the sun yonder" (83, l. 27).

tum denique: *denique* has merely the effect of emphasising *tum*, and may best be represented in English by a repetition: "then, then."

obsecrabo obtestaborque: these two verbs are often joined, as in Pro Sest. 147; so *orare* and *obtestari* below, 92, l. 9 and 105, l. 29 (cf. 85, l. 19); but *orare atque obsecrare* is far commoner (Cic. Caes. Sall. Nep. Liv.). Cf. n. on 2, l. 15 *recreat et reficit*.

16 **cetera**: "all else"; i.e. the constitutional privileges which Clodius had destroyed by his violence.

17 **vitam ut liceat defendere**: explanatory of *hoc*. But *hoc ignoret* is followed by a clause with accus. and infin., below, 8, l. 2. The subjunctive with *ut* is about as common as the accus. with infin. in such explanatory clauses.

audacia: almost always used in a bad sense ("recklessness") in the best period of Latin, excepting in accounts of battles, in which even recklessness may be a virtue.

18 **ut**: kept back till late in the clause, in order to bring into prominence the words *vitam...telisque*.

§ 7.

19 **antequam...venio**: after *antequam* Cic. often has the indic. pres., rarely the future-perfect; never the future (which is Plautine and Terentian but not classical); and probably never the imperf. and plup. [De Nat. D., 1, 57, quoted by Merguet in his Lexikon for the future, really gives an ex. of the pres. subj. (*aggrediar*)].

orationem: here "part of my speech."

20 **propria**: the topics treated from § 7 to § 22 inclusive are not essential to the case; they are *extra causam* (92, l. 8); cf. 23, l. 26 *ad causam*, and App. B.

quaestionis: the regular word for a court of inquiry into a criminal matter; cf. Introd. p. 19.

21 **saepe**: to be taken with the words *in contione* as well as *in senatu*; *contione* being generic in sense, as in 26, l. 32 *significavit hoc saepe in senatu, dixit in contione*. It is not likely that Cic. is referring only to the *hesterna contio* mentioned in 3, l. 14.

23 **rem** etc.: "the point at issue"; cf. 31, l. 22, and App. B.

24 **fas ei**: *eum* might have been substituted with little difference to the sense. Of course where no *person* is mentioned, the construction with accus. and inf. is necessary, as in 86, l. 8. Compare Verg. Aen. 2, 402 *heu nihil invitis fas quemquam fidere divis* with 7, 692 *quem neque fas igni cuiquam nec sternere ferro*.

25 **hoc disputant**: "put this forward," as in 44, l. 18. So *defendere* "to put forward by way of defence," in 8, l. 3 and often.

26 **primum iudicium**: according to the legend narrated in Liv. 1, 26, every sentence pronounced by a competent magistrate was executed without appeal, until the time of Horatius, in whose case, after he had been condemned for killing his sister, an appeal was for the first time allowed to the whole of the citizens in *comitia* assembled.

27 **M. Horati**: Livy calls him Publius.

libera...liberatus: there seems to be an intentional contrast: though the burgesses were not "free," yet they "freed" Horatius. *Liberatus* as in 8, l. 13, and often, of acquittal on trial.

28 **comitiis**: an ablative which really expresses a point of time "when the *comitia* took place," and is therefore parallel with *Idibus*, *hieme*, and the like. So *ludis*, as in De Senectute 63.

§ 8. P. 28.

1 **cum...quaeratur**: i.e. in a public court (*quaestio*); the subj. because subordinate to *solere* etc.

2 **recte et iure**: so the adverb and noun are linked in Tusc. 1, 83 *vere et iure*, and commonly in the phrase *recte atque ordine*. Here *recte* points to the moral aspect of the matter, *iure* to its legal aspect.

3 **nisi vero**: this combination invariably introduces a statement which the writer wishes to stamp as absurd. So (very often but not always) *nisi forte*. For *nisi vero* see 14, l. 13; 19, l. 20; 81, l. 27; 91, l. 33; and for *nisi forte* 17, l. 28; 84, l. 5.

Africanum etc.: Cic. tells the story in almost the same words in De Orat. 2, 106; but Livy, Epit. 59 represents the statement of Africanus as having been made in the course of a speech in opposition to a bill (*rogatio*) proposed by Carbo. It would seem that in an account of the matter by some older writer the word *roganti* occurred in connexion with Carbo's name, and that Livy understood it of proposing a bill, while Cicero took it to mean putting a question. Velleius 2, 4, 4 and Valerius Max. 6, 2, 3 follow Cicero's account, Valerius with some dramatic details. Vell. makes Scipio add a "saving clause": *si is* (*Gracchus*) *occupandae rei publicae consilium habuisset.*

4 **Carbone**: in 131, when C. supported the democratic party. But as consul in 120 he defended Opimius (see n. on l. 7). Nevertheless in the following year he was prosecuted for his share in the Gracchan troubles and died by his own hand.

tribuno: "*when* tribune," not "*the* tribune."

seditiose: see crit. n. in App. C; also on *responderit.*

7 **Ahala**: the slayer of Sp. Maelius, who, like Ti. Gracchus, was accused of plotting to make himself king (Liv. 4, 13 sq.). The order of the names *Ahala Servilius* is not uncommon in Cic.; indeed when the *nomen* and *cognomen* are used together without the *praenomen*, as here, the *cognomen* is by Cic. regularly placed before the *nomen.*

P. Nasica: his full name was P. Cornelius Scipio Nasica Serapio (the last a nickname bestowed on his father, which stuck to the family). Although without office at the time (*privatus*) and without legal authority of any kind, he led the aristocratic mob which killed Ti. Gracchus and many of his supporters.

Opimius: being consul in 123, he was armed with the *senatus consultum ultimum* (see Introd. pp. 15, 16) and made an end of Gaius Gracchus.

8 **Marius**: he is here mentioned because he crushed Saturninus in 102 B.C.

me consule senatus: Cic. always tries to fix the whole responsibility *for the execution* of the Catilinarians upon the senate, which ordered

it. But Opimius and Marius both had similar authority from the senate. To be consistent here, Cic. should either have substituted the name of the senate for those of Marius and Opimius or have written *ego* instead of *me consule senatus*.

9 **interfici nefas esset**: with impersonal verbs and phrases, the passive rather than the active infin. follows, where the circumstances allow of a choice between the two, as is mostly the case. Cf. 34, ll. 10, 12.

10 **fictis fabulis**: a common expression: cf. 42, p. 42, l. 1.

doctissimi homines: "the greatest poets." The reference is mainly to Aeschylus; but other great poets also handled the story of Orestes.

memoriae prodiderunt: "have handed on to after times"; a common phrase; cf. *prodere monumentis* (De Leg. 1, 62) and *tradere memoriae* (Paradoxa 23). In a few passages we find *proditum est memoria* (Cic. Verr. 2, 1, 47; Caes. B. G. 5, 12; Liv. 40, 29, 2) where *memoria* is taken to mean "by tradition"; but the expression is probably not Latin, *memoria* being an error for *memoriae*.

12 **variatis**: "being at variance," i.e. evenly divided (see next note). The verb *variare* occurs here only in Cicero's speeches, and I have found no ex. elsewhere of this sense, though in De Fin. 5, 12 we have *variari* from an impersonal *variatur* (of opinion). Livy would probably have written *variantibus*, but the use of *variare* as a neuter verb is later than Cicero.

non solum...liberatum: "was acquitted by the vote of one who was not merely a goddess, but a goddess preeminent for wisdom." Cic. seems to have thought that Athena acquitted Orestes by giving a casting vote, and no doubt the phrase "vote of Athena" (ψῆφος Ἀθάνας), which became proverbial, was used to mean a casting vote. But in the "Eumenides" of Aeschylus, the opinions of the court of Areopagus which tried Orestes are not evenly divided. There would have been a majority of one for a verdict of "guilty," had not the goddess cast her vote into the urn in favour of acquittal. She states that Orestes wins even if the votes be equal (Eum. 741: νικᾷ δ' Ὀρέστης, κἂν ἰσόψηφος κριθῇ). Dio Cassius 51, 19, 7, speaking of the powers of Augustus, says that he assumed the right to give something like the "vote of Athena" (ὥσπερ ψῆφον Ἀθηνᾶς) in criminal trials, but no instances of its exercise by the emperors are on record. [Possibly Dio is merely alluding to the power of pardon exercised by the emperor in virtue of his *tribunicia potestas*. For the phrase *calculus Minervae* often used in modern books I have found no ancient authority.]

§ 9.

14 **duodecim tabulae**: the Decemviral code of 451, 450 B.C.: often described by *duodecim* without *tabulae*. Among the fragments of it that remain is the passage to which Cic. refers: *si nox furtum faxsit, si im occisit, iure caesus esto...luci...si se telo defendit* (Bruns, *Fontes Iuris Romani*, p. 30, ed. v.).

quoquo modo: it is rare in Cicero's writings to find *quisquis* or *quicumque* in a parenthetic clause without a verb, and where this is the case a verb is easily supplied from some neighbouring verb, as here. Later writers (Tacitus for example) employed *quoquo modo, quocumque modo* freely as substitutes for *quovis modo*. The rule that any thief might lawfully be killed at night was probably obsolete in Cicero's time.

15 **telo**: a wide interpretation was put upon this word by the Roman lawyers. Any use of violence on the part of the thief was held to justify his death.

defenderet: i.e. from capture and identification. At Rome, theft by one citizen from another was regarded as essentially a civil, not a criminal wrong, though certain disabilities attached to the thief on judgment being given against him. A much heavier penalty was inflicted on the thief who was caught in the act (*fur manifestus*) than on one who escaped and had to be tracked; it was important therefore to seize and identity the thief on the spot.

16 **poeniendum**: "a matter for punishment"; some general subject in agreement with *poen.* is omitted.

18 **ab ipsis legibus**: as the laws are personified here, the *ab* is necessary. So Cic. often has *a natura datum* as well as *natura datum*, nature being treated as a person in the former phrase. See other exx. in my n. on Academ. 1, 15.

atqui si...certe: the same form in 19, l. 14; cf. 32, ll. 9 sq. *Atqui* has two uses; it introduces (1) a new step in an argument which is being unfolded step by step as here and 32, l. 9, or (2) *a retort*, or a statement in contrast with what immediately precedes (so in 19, l. 14). *Qui* in *atqui* is an old ablative (used as adverb) of *quis* the indefinite pronoun, as *qui* (*how?*) is an old abl. of *quis* the interrogative pronoun. The indefinite *qui* meant originally (like the enclitic πως) "somehow or other," but in compounds ceased to have any precise force. It is attached to many words in early Latin, but in later Latin we only find *atqui, alioqui, ceteroqui, utqui* (Lucretius). The forms *atquin* etc. are erroneous.

tempus...quae: transition from sing. to plur. as in De Leg. 1, 40 *naturae iure aliquo...quae* (sc. *iura*); De Fin. 5, 94 *Peripateticus...qui* (sc. *Peripatetici*) *dicunt;* in Tusc. 1, 6 *aliquid* is followed by *illa.* Sometimes we have a transition from plur. to sing. Both changes are commoner in Greek.

19 **quae multa sunt**: "and there are many."

20 **vi vis**: so often, as 30, l. 7.

21 **defenditur**: "is repelled."

eriperet: tentative=*conaretur eripere;* so *afferebat* below; 14, l. 22 *decernebat.*

militi: here, as often, of a soldier in the ranks (*gregarius miles*).

tribunus militaris: Cic. uses this title (which is not in Caes. Sall. Liv. Nep. Tac.) and *tribunus militum* with about equal frequency.

22 **C. Mari** etc.: the story was much quoted in schools of rhetoric to illustrate "justifiable homicide." The officer was son of a sister of Marius.

propincus: includes relatives by marriage (*adfines*) as well as relatives by blood (*cognati*). The word, like *amicus*, *inimicus* (cf. 33, p. 38, l. 2), *vicinus*, *familiaris* etc., takes a dative when it is used as an adjective, but a genitive when it is employed as a noun. For the spelling see App. C.

23 **probus**: "pure-minded"; so *improbus* often means "unchaste."

24 **periculose...turpiter**: the adverbs here take the place of objects to the verbs. This is common with *facere* (33, p. 38, l. 7), *polliceri*, *cogitare* (67, l. 6), and some other verbs. Cf. Hor. sat. 1, 4, 131 *fortassis et istinc largiter abstulerit longa aetas.*

atque: "and yet"; as often at the beginning of a sentence.

25 **summus**: always with *vir*, *homo*, and the like, not *supremus*, though the two words are often interchangeable.

scelere:=*sceleris crimine* as in 31, p. 37, l. 2. Cic. does not say *absolvere aliquem crimine* or *scelere* or *maiestate* or the like, but *criminis*, *sceleris*, *maiestatis* etc. [*Ambitu* in texts of Pro Cael. 78 is doubtless an error.]

periculo: of peril from a criminal charge, as often; see 101, l. 25.

§ 10.

26 **quae...nex?** As to the argument see App. B. This is probably the only extant passage where the nominative *nex* occurs before Suetonius.

27 **comitatus**: Introd. p. 12.

volunt: "mean"; often with *sibi* in this sense.

28 **nullo pacto**: lit. "on no bargain," i.e. "on no terms"; hardly different in sense from *nullo modo;* cf. 32, l. 3.

est igitur etc.: this sentence is notable for the number of clauses, all exactly parallel, which it contains. Cic. himself quotes it in Orat. 165 as an example of *concinnitas*, i.e. parallelism (*ἰσόκωλον*, *πάρισον*).

29 **non scripta** etc.: cf. 30, l. 14 and De Leg. 1, 19 *quae* (=*lex*, the law of nature) *saeclis omnibus ante nata est quam scripta lex ulla.* Greek writers often contrast the written law with the unwritten law of nature (*ἄγραπτα νόμιμα* or *ἄγραφοι νόμοι τῆς φύσεως*). The passage in the Antigone of Sophocles (450 sq.) in which the contrast is enforced is well known.

didicimus accepimus legimus: for words arranged in "threes" (a favourite form with Cic.) cf. 56, l. 30. *Didicimus* includes in its meaning the sense both of *accepimus* (=*audivimus*, oral instruction) and of *legimus*.

30 **ex natura**: this goes ill with *expressimus*, which means not "we have wrung" but "we have framed, shaped, moulded," the metaphor being derived from the fictile arts. In fact there is a slight zeugma.

31 **ad quam...docti**: rather unusual, but cf. *erudire ad* in Pro Font. 43 and Pro Imp. Cn. Pomp. 28; *meditari ad* in Verr. 2, 3, 188, and *docilis ad* in Tusc. 2, 15.

32 **imbuti**: "ingrained." *Imbuere* first meant "to dye" (cf. 18, l. 7), or literally "to cause to drink," being a compound of a lost verb *buere*, to drink or cause to drink (cf. *vinibua* "winebibber" in Plautus). So *bibere*, *haurire*, *potare* and similar words are used of dyeing. Then *imbuere* implies giving a man his first "tincture" of some knowledge or skill; see Wilkins on De Orat. 2, 162. A well-known fragment of Cicero's lost work "Hortensius" illustrates at once the first meaning and the constr. with *ad: ut ei qui combibi purpuram volunt, sufficiunt* ("steep" or "stain") *prius lanam medicamentis quibusdam, sic litteris talibusque doctrinis ante excoli animos et ad sapientiam concipiendam imbui et praeparari decet* (C. F. W. Mueller's text of the philosophical works III. p. 315). For the use of *imbutus* of a *slight* tincture cf. Tac. Dial. 19, where it is contrasted with *instructus*, and Orbilius ap. Sueton. Gram. 4 *non perfectum sed imbutum litteris;* but it often implies (as here and Phil. 10, 20) a thorough knowledge.

ut...esset: this clause is explanatory of *haec lex*, the words from *quam non didicimus* to *imbuti sumus* being parenthetic.

in vim et in tela: generally the preposition is not repeated after a *copulative conjunction*, unless the two words connected by the conjunc-

tion are very distinct in meaning. But no hard and fast rule can be laid down, especially as the writers of the MSS. have confused the matter by capriciously inserting and omitting the smaller prepositions. Cf. 5, ll. 5, 6; 56, l. 27.

33 **incidisset**: pluperfect, in order to mark the time as earlier than that of *esset* below.

P. 29.

1 **honesta**: this although it stands between *omnis* and *ratio* is predicative not attributive.

expediendae: lit. "of disentangling," i.e. "of securing." Cf. *impedire salutem* in De Leg. Agr. 2, 7.

silent leges inter arma: a maxim much quoted in modern times and often misapplied. For the personification of *leges* cf. De Leg. 3, 39 *si quando ambitus sileat;* Lucan. 5, 31 *leges silentes.* Corresponding phrases with *loqui* are much commoner.

3 **luenda**: *luere poenam* usually implies that the penalty paid is just. For another use of *luere* see 99, p. 64, l. 2.

repetenda: *repetere* is a technical term for seeking redress by process of law.

§ 11.

4 **etsi**: n. on 6, l. 7 *quamquam.*

persapienter etc.: "very wisely and I may say by its silence." *Quodam modo,* like *nescio quo modo* and *quasi* or *quidam* (21, p. 33, l. 3) or *quidam quasi,* is often inserted by way of apologizing for a metaphorical or otherwise unusual word or phrase.

5 **defendendi**: here, as often, the gerund is equivalent in meaning to an ordinary verbal noun (*defensionis*). *Defendendi* therefore has a more general sense than if *se* or *sui* (as below) had been added.

quae...vetat: the words of the statute (passed by Sulla) are given in Digest. 48, 8, 1: *lege Cornelia de sicariis et veneficis tenetur qui hominem occiderit...quive hominis occidendi furtive faciendi causa cum telo ambulaverit.* As to Cicero's argument see App. B; and, as to the reading, crit. n. in App. C.

esse cum telo: cf. 29, l. 25; so *esse cum armis, cum veste, cum palla, cum tunica* etc.; and cf. De Orat. 3, 6 *cum febri domum rediit;* Ad Att. 6, 9, 1 *Romam venisse cum febri.*

6 **causa non telum**: i.e. the motive, not the (mere possession of the) weapon.

8 **iudicaretur**: dependent on *vetat*, which is treated as a historic present, rather strangely, seeing that the injunctions of the law are as operative at the moment of writing as before. The tense of *quaereretur* is adapted to that of *iudicaretur*.

9 **maneat**: the verb is often applied to a firm argument or established principle; cf. De Div. 1, 38 *modo maneat id quod negari non potest;* De Off. 3, 49 *maneat ergo, quod turpe sit, id numquam esse utile;* Tac. Hist. 1, 18 *quae fato manent* "destiny's decrees" (needlessly altered by some).

10 **probaturus sim...memineritis**: directly put, this would have been *probabo, si memineritis* (fut. perf.), a common form of conditional sentence.

§ 12.

14 **in qua**: "in the course of which." It is implied that others also were killed. *Qua* without *in* would have been merely "whereby"; and would have been restricted to the killing of Clodius. Cf. 15, l. 28.

senatum etc.: see Introd. § 12. For the form of the resolution cf. Caes. Bell. Civ. 1, 2, 7 *si non faciat, eum adversus rem publicam facturum videri.*

15 **vero**: strongly adversative, and almost equivalent to *immo vero* (34, l. 14). The word is often used with a sense as strongly affirmative.

16 **sententiis**: "votes"; *studiis*: "sympathies."

comprobavit: here, as usual, of approval given *after* a thing has happened.

17 **quotiens...quibus...quam**: Cic. sometimes links these exclamatory clauses together by conjunctions, sometimes places them side by side as here; cf. 38, l. 10.

18 **quam**: often with negatives; so 43, l. 9; cf. 56, l. 21 *sic non paratus.*

19 **quando enim**: note the two successive sentences with *enim;* cf. Tusc. 2, 58.

summum: "at the most"; but in 26, p. 35, l. 2 of time "at the latest."

21 **ambusti**: "singed"; of course with reference to the burning of the body of Clodius (Introd. § 8). But there may be a second allusion. The word was applied to men who had barely escaped condemnation in a criminal court. Examples of *ambustus* and like words employed in a similar manner occur in Ad Att. 5, 20, 8; Liv. 22, 35; 22, 40; 39, 6. It is known that Cic. had acted as counsel for Plancus, the tribune in question (Ad Fam. 7, 2, 3).

intermortuae: "made between death and life." *Intermortuus* is properly applied to a person at the point of death; so Liv. 37, 53, 10 *in ipsa contione intermortuus haud multo post exspiravit;* and Sueton. Ner. 42. A slight difficulty is caused by the plural *contiones* and *cotidie*, since *intermortuae* should strictly apply only to the day of the burning. But Cic. supposes the "dead and alive" condition to continue after that day.

22 **potentiam**: "ascendency," power resting on no public authority, whereas *potestas* is power conferred by office. *Auctoritas* is influence derived from character or experience; *gratia* influence due to private friendships.

invidiose: not "enviously," but "so as to excite odium."

25 **hos**: here generic; not "these" but "such as these."

27 **officiosos**: not "officious" (a meaning the Latin word never has) but "devoted." *Officium* is primarily service done or due to kin or countrymen or others who have like claims. Here Cic. is thinking of his clients.

meos...nos: this sudden change from first pers. sing. to first pers. plur. used of the speaker is often met with; see my n. on Academ. 1, 1.

29 **perditorum**: in good Latin the passive of *perdo* occurs only in the participle, excepting *perditur* in Hor. sat. 2, 6, 59, where it may be spurious. The passive is replaced by *perire*, *interire* and the like.

§ 13. P. 30.

1 **non est iniqua**: a sop to Pompey.

2 **quaestiones vel...vel**: with "either" and "or" English idiom would require the singular (*erat quaestio*). For a similar irregularity see n. on 14, l. 16 *volnerarunt*.

de caede: above, 11, l. 5.

3 **de vi**: under the *lex Plautia* of 78 B.C.; cf. Pitt Press ed. of Pro Sulla, Introd. p. 23 sq.

nec tantum etc.: in Phil. 2, 22 Cic. condemns the establishment of this special court.

maerorem...luctum: these words are often put together, as in Sall. Iug. 14, 15 *clausi in tenebris cum maerore et luctu;* cf. below, 16, ll. 18, 21; 20, l. 30; sometimes *dolor*, *maeror*, *luctus* all occur in the same sentence; so Pro Balb. 61 and Tac. An. 3, 6 *convenisse recenti dolori luctum et ex maerore solacia.* *Dolor* is grief as felt at the heart, *maeror* as expressed by the condition or action of the sufferer, for example by the gloom on his face or by his tears; *luctus* by material signs, as in the dress. Cf. Tusc. 4, 18 *luctus aegritudo ex eius qui carus fuerit interitu acerbo; maeror aegritudo flebilis...dolor aegritudo crucians.*

4 **adferebat**: *attulit* or *attulerat* would have been more natural.

5 **incesto stupro**: "foul profanation," in connexion with the Bona Dea (Intr. § 2). *Illo* has the force of "notorious."

iudicium decernendi...potestas: the expression is curious. The senate was not prevented from voting for a trial of Clodius, but a bill brought forward by the consuls in pursuance of the decree, for the purpose of establishing a special court, was prevented from passing by a tribune, who afterwards carried a bill of his own more favourable to Clodius.

7 **cur decrevit?** Introd. § 12, and App. B.

§ 14.

13 **nisi vero**: n. on 8, l. 3. The words refer to *optanda*. For readings here see crit. n. in App. C.

15 **e re publica**: the ultimate good to the country is pitted against the temporary harm, which is *contra rem publicam* (l. 11). The words *e re publica* take the place of an adverb here and in Phil. 11, 11 *bene et e re p. iudicare*, and De Orat. 2, 124 *multas e re p. seditiones saepe esse factas;* but the force is adjectival in the frequent phrases *civis e re p.* "a patriotic citizen" and *hoc e re p. est* "this is a patriotic action." *E re* is used by Plaut. and Ter. as the opposite of *ab re* ("away from the purpose"). In De Leg. 2, 59 we have *e natura* "in accordance with nature."

16 **volnerarunt**: the plural in spite of the fact that *aut* goes with each of the three subjects to the verb. Parallels are to be found here and there, in connexion with *vel* and *neque*, as well as *aut* (see 13, l. 2).

decrevi: "the meaning of my vote was etc." *Decerno* was one of the words employed by the individual senator in giving his answer when called on for an opinion by the consul or other president. See e.g. Phil. 9, 13 and 14, 29.

17 **Appia**: without *via* as in 18, p. 32, l. 4; so Hor. sat. 1, 5, 6 *minus est gravis Appia tardis.*

18 **inesset vis et insidiae**: the verb, as often, is made to agree with the nearer noun only; cf. 23, p. 34, l. 2; 67, l. 11.

19 **vis**: i.e. offensive violence, not defensive.

21 **haberemus**: "we should not have now"; *habuissemus* would have conveyed the meaning "we should never have had a new court."

22 **extra ordinem**: i.e. that the trial should not wait its turn with others. The phrase *extra ord.* was used of any departure from rule. Thus a civil suit is said to be heard *ext. ord.* when the praetor tries it out to the end himself, a thing which rarely happened. See Introd. § 12.

23 **divisa s.**: "the motion was split up." Senators often cried out to the president "*divide*," i.e. "split up the motion into two parts and put each separately." See Ascon. 44. Cic. calls the demand *flagitium* because the great majority of the senate were against it. The disgrace, if any, rather belonged to the consul who granted the request.

24 **nihil necesse est**: here only in the speeches of Cic. for *non necesse est* and rare everywhere; cf. *nihil opus est* and *quid necesse est?*

25 **reliqua** etc.: "the rest of the senate's resolution was made invalid by a mercenary veto," i.e. a tribune exercised his right of rendering it useless. *Auctoritas* is the regular expression for a vote of the senate which has been vetoed.

§ 15.

26 **at enim** etc.: "but I am told that Cn. Pompeius by his bill gave a pronouncement about the facts and about the legal issue as well." *Re* and *causa* are contrasted like *res* and *crimen* in l. 19.

27 **tulit** etc.: the words *caede...occisus esset* are quoted from the measure. For the argument see App. B; and for *in qua* n. on 12, l. 14.

P. 31.

1 **porro**: here like our "well." The literal sense "further" is found in Cic., as De Orat. 2, 39 *perge porro*, from which it passes to "moreover" (19, l. 18; 25, l. 17). Sometimes it is "however," with slightly adversative force (Madvig on De Fin. 2, 25), and in very late Latin it acquires the meaning of *sed* or *ceterum*.

2 **patet**: "it is as clear as daylight." So Phil. 12, 5 *discussa est illa caligo...diluxit, patet, videmus omnia.* See crit. n.

3 **in confessione facti**: "where the facts are admitted"; cf. 32, ll. 4, 5; 33, p. 38, l. 8. *In* often indicates a connexion, which may be very loose, between the words with which it goes and the rest of the sentence. Our "amid" is often similar in use; thus we may render Liv. 1, 17, 3 *in variis voluntatibus regnari tamen omnes volebant*, "amid differences of opinion, all still desired that there should be a king."

4 **quod nisi**: n. on 31, l. 19.

eum qui: "one who"; not referring merely to Milo.

6 **tam...quam**: so 96, l. 33 *non tam...quam.*

hanc...illam: it will be seen that by the use of these words Cic. subtly implies that his client is to be acquitted; *hanc* indicating the verdict which lies close to the case, *illam* that which is more remote from it.

litteram: it seems to be impossible to determine exactly how the jurors gave their votes. One view is that a single plain waxed tablet (*tabella*) was given to each juror, on which he scratched either A "not guilty" (Cicero's *salutaris littera,* for *absolvo*) or C "guilty" (*tristis littera,* for *condemno*) or NL (*non liquet*) if not clear about a verdict. There are two passages which speak plainly of a single tablet, viz. Cic. Div. in Caec. 24 and the Lex Acilia §§ 51, 2 (Bruns, Fontes, p. 65, ed. v.); but the tablet which the *lex* describes as *sorticola* was waxed on both sides, and on one side of it was already scratched A, on the other C; the juror had to erase one or (if uncertain) both of these letters. No mention is made in the *lex* of NL. Another opinion is that two *tabellae* were *ordinarily* distributed to each juror, and this is certainly implied by Suet. Aug. 33; a third tablet mentioned there is denoted as exceptional. The supposition that each man received *three* tablets rests mainly on Caes. Bell. Civ. 3, 83, 4; a reference to which will show that it proves nothing. Cic. in four places intimates plainly that the juror *said* "*non liquet*" and did not *write* NL; see Pro Clu. 76, 106, 131 and Pro Caec. 29 (cf. Ps. Ascon. on Verr. 2, 1, 26). If we could stand by an interesting passage in Gellius 14, 2, 25, it would demonstrate that a juror who could not make up his mind was compelled to take an oath to that effect. Probably the manner of voting was different at different periods and under different statutes.

7 **tristem**: cf. Ovid. Met. 15, 41 *mos erat antiquis niveis atrisque lapillis | his damnare reos, illis absolvere culpa, | tum quoque sic lata est sententia tristis.*

9 **oporteret**: see n. on 3, l. 15.

10 **defensionem**: "a possibility of defence"; the verbal nouns in *-io* often convey the notion of possibility; so *exercitationem* in 34, l. 30.

dedit: a slight zeugma, because by itself *poenam dare* "to assign a penalty" would not occur (*proponere poenam* being the right expression). When *poenam dare* is used by itself, it means "to pay a penalty."

11 **interitum**: see crit. n. (App. C).

§ 16.

12 **iam**: "to proceed," as often in Cic.

quod...fecit: "the measure he took on his own initiative," i.e. apart from the senate, which desired a different measure.

13 **tempori**: n. on 2, l. 14.

15 ***patronus:*** probably indicates that Drusus dominated the senate as a

patronus did his *cliens* in the old days. Cf. Suet. Tib. 3 (of the elder Drusus) *ob eximiam adversus Gracchos operam patronus senatus dictus*, which is possibly a reminiscence of our passage, slightly misapplied; particularly as in the context Suet. copies another passage of Cic. relating to the younger Drusus (Pro Planc. 33 *multa in re publica moliens*). So *tutor, tutela rei publicae* sometimes occur (De Orat. 3, 3; Ad Quir. 11). But *patronus* may mean here "advocate" or "mouthpiece" as in 39, l. 24; cf. Liv. epit. 71 *Drusus...ut maioribus viribus senatus causam susceptam tueretur.*

avonculus: Livia the sister of this Drusus (the younger) was twice married. Cato of Utica was her son by her first marriage; by her second husband Q. Servilius Caepio she had a daughter Servilia who was mother of M. Brutus, the murderer of Caesar.

16 **tribunus plebis**: emphatic, as Drusus was slain during his tribunate, in spite of his *potestas* being *sacrosancta*.

17 **nihil**: for *non*, found at all periods of Latin; as in old English "nothing" for "not." Above, 14, l. 24.

consultus: *consulere senatum* is regular, *consulere populum* rare; see De Rep. 2, 31 and 38; De Dom. 53. *Est* is easily supplied for *consultus* from *decreta est;* so 23, p. 34, l. 1; 28, l. 16. Cic. does not usually put the participle alone for the perf. pass. tense, as poets and later prose writers do; nor does he omit the substantive verb with the gerundive; cf. 53, l. 19.

20 **nocturna vis**: Carbo (above, 8, ll. 3, 4) and C. Gracchus were suspected of murdering the younger Africanus. But Laelius, the most intimate friend of Africanus, believed the death to be natural, and Cic. elsewhere (De Amic. 12) speaks of the theory of violence as a mere suspicion. Charges of murder were readily made in ancient times when the cause of a death was not apparent.

21 **dolore...exspectatam esse**: the infin. is dependent on something suppressed, "grief at the thought that..." There are many exx. in Cic. and other writers of the accusative with infinitive tacked on to a substantive in this elliptic way. Cf. e.g. De Nat. D. 2, 11 *litteras...misit se recordatum esse* (i.e. *quibus nuntiabat* etc.) and below, 33, l. 20.

22 **cuperent**: n. on 23, l. 28 *vellemus*.

necessariam mortem: not exactly "natural death" (i.e. death due to disease or decay), as some scholars say, but a death not purposely hastened by human violence. *Mors naturalis* first occurs in the elder Pliny.

24 **certe nulla**: a modern speaker would have left the audience to

supply the answer to such a question for themselves, but ancient orators almost always answered their own rhetorical questions. Cf. 31, p. 37, l. 1.

§ 17.

25 **alio...alio:** more forcible than *alio atque.*

26 **intersit inter:** "granted the difference between."

27 **et poenis teneatur et legibus:** a word or phrase which (like *teneatur* here) stands in the same relation towards two other words or phrases, is often thus placed between them. The usage is called by the old grammarians *coniunctio.* Cf. 24, l. 15; 29, l. 31; 36, l. 25; 42, ll. 2, 4; 47, l. 31.

30 **erit:** "shall be deemed."

monumentis: merely denotes the road, as the singular does in 37, p. 40, l. 5. So the temple consecrated to Honos and Virtus by Marius is frequently denoted by the name *monumentum Mari.*

maiorum suorum: only the old Appius Caecus, censor in 312, who made the road, is meant; the plural *maiores* is loosely used of one ancestor just as *liberi* is often employed of one child; neither word, when used in the particular sense, has any singular. So *posteri* below.

est interfectus: see cr. n. (App. C).

32 **non qua...sed ubi:** = *non ut ea sed...ut ibi.*

§ 18. P. 32.

1 **ornatissimum:** "most distinguished." He was probably a leading man among the farmers of taxes (*publicani*). The position of the name Clodius in the middle of the description of his victim is artistic.

3 **suis:** = *suorum* = *maiorum* in 17, l. 30.

5 **tragoedias:** "tragic woes"; cf. Tusc. 4, 73 *quas tragoedias efficit;* De Orat. 2, 205 *tragoedias agere in nugis* "to make woeful tragedies out of trifles." There are similar uses of τραγῳδία, τραγῳδεῖν.

quae cruentata etc.: "there was no whisper about it aforetime when it was reddened by the slaughter of an upright and unblemished man, but now it has been stained with the blood of a brigand and assassin, its name is on many tongues." *Cruentata* is stronger than *imbuta,* for which see n. on 10, l. 32.

6 **usurpatur:** the verb is especially applied to the use of words.

7 **parricidae:** n. on 86, p. 59, l. 9.

8 **sed quid...commemoro?** A common form of transition (Pro Flacc. 103); cf. 44, l. 18.

comprehensus est etc.: see Ascon. 47.

12 **caruit publico:** "was absent from every public place." *Carere* often has this sense in Cic. (below, 63, l. 15) and other authors. *Publico* as in 33, p. 38, l. 4, and in the phrases *in publicum prodire, in publico esse* or *videri* or *pernoctare* (Verr. 2, 4, 25).

iure legum iudiciorumque: "by those rights which statutes and courts guarantee," i.e. Pompey did not prosecute Clodius on a criminal charge. Cf. In Vatin. 22 *cum...non iure legum sed ianuae praesidio et parietum custodiis consulis vita tegeretur* (of Bibulus, Caesar's colleague, who shut himself up during the greater part of his year of office).

§ 19.

13 **num quae:** this rather than *numqua* is the Ciceronian form of the fem. as of the neut. plur.; so *si quae, ecquae.*

14 **si res** etc.: "if any facts, or any man, or any occasion ever justified such a measure, assuredly that case afforded every such justification in an extreme form." For *summa omnia* cf. Pro Imp. Cn. Pomp. 13 *unum virum esse in quo summa sint omnia* (of Pompey); and 35, ll. 6, 7.

16 **erat...collocatus:** Cic. is fond of separating (sometimes by a considerable space) the two portions of a compound tense.

atque:=*atque adeo* "and even" or "nay, more."

vestibulo: here no more than "precincts" or "approach to."

20 **nisi vero...proinde quasi:** so *nisi forte* is succeeded by *proinde quasi* above, 17, ll. 28, 31 and in 84, ll. 5, 6.

21 **exitus:** Digest. 48, 8, 14 *in maleficiis voluntas spectatur, non exitus* (a rescript of Hadrian).

§ 20.

25 **si non:** often for *nisi* in order to make the negative more prominent (but *si non* in 32, l. 12 is different).

30 **luget senatus** etc.: scholars have rightly drawn attention to the artificial structure of this sentence. In the first half there are three parallel verbs, *luget, maeret,* and *confecta est;* of these the two first follow their subjects while the last precedes its subject. Exactly the same is the case with the three verbs in the second half of the sentence, *squalent, adflictantur* and *desiderant.* There is again another triple arrangement in *tam beneficum, tam salutarem, tam mansuetum.* Instances of similar elaborate coordination of phrases and clauses are by no means uncommon in many authors. The six verbs in the sentence all convey the idea of grief in one form or another; this usage is called by the grammarians *distributio;* see an ex. in 42.

31 **senio**: this word often bears the sense of grief, trouble, weariness in early and late Latin, but this and one in Har. Resp. 39 are the only exx. in Cic.

municipia...coloniae: originally the *municipia* were towns, like Caere, whose inhabitants had the private but not the political privileges of Roman citizens. After the Social War all the townships of Italy (then extending northwards only to the rivers Rubico and Aesis) had equal privileges, and all were called *municipia.* But those towns which had been originally *coloniae* still clung to the title, and many new *coloniae* were founded in and after the age of Sulla, to provide for the veteran soldiers.

32 **adflictantur**: Tusc. 4, 18 *adflictatio est aegritudo cum vexatione corporis.*

agri...desiderant: the personification is of a type which is pretty frequent; so Verr. 2, 3, 47 *ut ager ipse cultorem desiderare ac lugere dominum videretur;* De Leg. Agr. 2, 9 *tecta atque agri mihi laetari videntur;* Pro Planc. 20; Pro Balb. 13.

33 **salutarem...civem**: so in Phil. 5, 49.

mansuetum: "gentle"; first used of animals, like χειροήθης.

§ 21. P. 33.

1 **non fuit**: cf. Pro Flacc. 53 *non est ita, iudices, non est profecto*, and n. on 27, l. 7.

2 **alta**: "lofty," as in Parad. 41 *animo excelso et alto;* not "deep" as in Verg. Aen. 1, 26 *manet alta mente repostum.*

3 **quadam**: this gives a slight apology for the strong word *divina;* so 44, l. 20; n. on 11, l. 4.

vidit: "had in view."

5 **ne videretur** etc.: "lest the loyalty of his renewed friendship (for Clodius) should be thought unstable." *Gratiae* is gen. not dat., according to Cicero's usage with *fides*. *Conciliare* is literally "to bring about a meeting (*concilium*)," then "to bargain for a thing," so "*reconciliare*" is literally "to bargain to get back."

8 **florentissimis ord.**: n. on 4, l. 22.

ipsa lumina: "the very flower"; "all the shining lights." For *lumen* of persons, cf. 37, p. 39, l. 28; Phil. 2, 51 *tot luminibus extinctis*, and my nn. on Pro Balb. 34, Academ. 2, 26. But in Verg. Aen. 11, 349 *lumina tot cecidisse ducum*, the sense is "that the suns of so many leaders had set"; cf. ib. 12, 63 *haec invisa relinquam lumina.*

12 **non enim** etc.: "kindly feeling for me is not restricted to private friendships."

14 **consuetudines victus**: "social intimacies"; the plur. as in De Fin. 1, 69 *consuetudinum instituendarum voluntates.*

17 **idque** etc.: "and believed that it closely touched his honour so to do."

§ 22.

21 **credo**: the parenthetic *credo* is usually, but not always, ironical.

23 **creavit**: constantly said of the magistrate who presides at an election.

24 **quam...insanias**: *dederas documenta* takes the same constr. that *docueras* might have taken. *Docere* is similarly followed by an *ut*-clause in Caes. and other writers. *Quam* in a dependent clause is very frequent in Cic., and has the meaning of *quam valde*, which is indeed sometimes substituted for it.

insanias: plural, because Cic. has in mind many instances of *insania*. Cic. has a particular fondness for the plur. of abstract nouns. According to Draeger, Hist. Synt. § 7, there are 3814 abstract nouns in Latin, of which about 2500 occur only in the singular.

iam ab adulescentia: some edd. have insisted (with Asc.) that Cic. is alluding to events not more than six years old, and they quote the word *adulescentulus* applied to Caesar, when he was already praetor elect, by an aged and disappointed rival (Sallust. Cat. 49, 2), a circumstance which makes the illustration useless. No strict definition of *adulescens* can of course be given; but the word is not likely to be used of a man over 30 unless it specially denotes *youthfulness* and unusual vigour.

§ 23.

26 **causam**: here in a strict sense, "the real issue"; cf. 92, l. 8 *causa, extra causam.* The combination of *causa* with *crimen* is frequent.

28 **vellemus**: a subjunctive often called by the inconvenient and misleading name "potential." The word is really apodosis to a suppressed protasis, "if we had stated our desire." *Vellemus* is put where our idiom would require a pluperfect. So in 16, l. 22 *posset* and *cuperent;* cf. 45, p. 43, l. 4; 49, l. 17; 50, l. 29.

30 **facti**: for *de facto*, as often; Roby § 1318 and below, 42, l. 29.

P. 34.

2 **disceptet**: applies to *iudices* as well as *is*, though agreeing with *is*, the nearest subject; cf. 14, l. 18. For *haec disc.* see n. on 53, l. 19.

relicum est ut: although *est* with a neuter adjective is generally followed by infin., yet there are numerous exx. of the *ut*-clause, which is indeed regular in this particular phrase (36, l. 16); so *restat ut*, *relinquitur ut*, *superest ut*, the infin. with these verbs being late or poetic.

3 **uter...fecerit**: see App. B.

4 **argumentis**: "proofs," not "arguments," a sense which the word never bears in good Latin. Cf. n. on 61, l. 19.

5 **diligenter**: "carefully," "minutely," as always; not "diligently."

§ 24.

6 **in praetura**: Introd. § 4.

7 **anno superiore**: a curious phrase, as the *comitia* did not take place at all in the *annus superior*, but only in July of the following year. See crit. n. (App. C).

9 **gradum**: cf. "step" as often used of military promotion. The ordinary man would have been content with the title *praetorius* "past-praetor," which raised a man's rank in the senate and (save that it was not hereditary) was like the gain of a higher title in our peerage.

10 **collegam**: "*as* colleague."

12 **annum suum**: "his proper year"; similarly De Leg. Agr. 2, 3; De Off. 2, 59; Ad Fam. 10, 25, 2 and 12, 2, 2. The phrase is used in two ways, (1) of the earliest year in which it was possible by law for a man to hold a particular office, (2) of the year succeeding the minimum interval (*biennium*) which the law interposed between the tenures of two higher magistracies. The latter is the meaning in Ad Fam. l. l. As the date of the birth of Clodius cannot be determined, the meaning is uncertain here. He was aedile in 56; therefore 53 would be *annus suus* for him on the second interpretation, but it may have been *annus suus* according to the other also.

13 **religione aliqua**: either because the pretence for stopping the elections was usually the announcement of an unfavourable omen, or because the interruption to the election was in itself deemed an unfavourable omen.

quod: for the more usual *ut* because of the nearness of another *ut*; yet see 25, l. 20.

14 **hoc est**: like *id est*, often introduces a correction: "or rather"; see my n. on Academ. 1, 32.

15 **plenum...integrum**: often together, as Liv. 34, 22, 12.

§ 25.

16 **mancam ac debilem**: so Pro Rabir. perd. r. 21 and elsewhere.

17 **summo consensu**: "with entire unanimity"; cf. Ad Att. 1, 16, 5 *summo discessu bonorum.*

18 **fieri**: "that he was being voted for" (34, l. 14); like the common phrase *facio te consulem* "I vote for you as consul."

20 **umeris sustineret**: a proverbial phrase; cf. Amm. Marc. 16, 3, 3 *bellorum inundantium molem umeris suis, quod dicitur, vehens.*

21 **tribus**: i.e. representatives of the tribes were summoned to enroll themselves as canvassers and to receive bribes. Those enrolled were organised into *collegia* or *sodalicia*, apparently one for each tribe (though the *collegia* of Clodius are sometimes supposed to have been *compitalicia*). The process is called in Pro Planc. 45 *decuriatio tribulium*, and (by a phrase proper to the censors) *discriptio populi;* cf. ib. 47, and Pro Sest. 34. These *collegia* were based on the pretence of joining in some religious rite.

se interponebat: he acted openly as bribery-agent (*sequester*, Pro Planc. 45), a function generally left to men of low rank.

Collinam novam: Clodius is compared with the censors, who sometimes altered the boundaries of the old tribes; thus a *nova Claudia tribus* was joined with the *vetus Claudia* to form one tribe (Liv. 2, 16, 5). The name *nova Collina* here is a reminiscence of this. The order of voting among the tribes was fixed, and of the four city tribes the *Collina* voted last. In Pro Sest. 114 the *Palatina* is marked out as the turbulent tribe.

22 **conscribebat**: so Pro Sest. 55 *ut...collegia conscriberentur;* Pro Dom. 54 *cum...conscribebas non modo liberos sed etiam servos;* Ad Quir. 13 *homines conscribi centuriarique* (all of Clodius).

quanto plura miscebat: "the more confusion he made"; like the frequent expression *omnia miscere* "to produce general confusion."

23 **magis in dies**: *cotidie magis* is also often used, without difference in sense.

24 **paratissimus** etc.: a good ex. of Cicero's fondness for a heap of superlatives.

25 **certissimum consulem**: "quite sure to be consul"; so De Nat. D. 1, 37 *ardorem, qui aether nominetur, certissimum deum iudicat* "beyond question god"; Ad Qu. Fr. 1, 2, 4 *certissimum matricidam;* Ad Att. 1, 1, 1 *certus competitor.*

26 **suffragiis**: the election had been repeatedly begun, and the votes of a number of tribes made known; possibly all (96, l. 30).

27 **aperte dicere**: see App. B.

§ 26.

28 **agrestis**: this word means "rude" or "savage," and does not become a synonym of *rusticus* in prose till Livy's time. Cf. Pro S. Rosc. 75 *vita haec rustica quam agrestem vocas;* De Orat. 3, 42; and *ἄγριος, ἄγροικος.*

quibus: for this instrum. abl. see n. on 54, p. 54, l. 3.

29 **silvas**: the larger forest tracts of Italy were in the hands of government, who let them out, as they did mining and fishery rights, to the *publicani* or in small portions to individuals (Brut. 85). It was from the Etruscan forests that wood was obtained for building ships during the Punic wars (Liv. 28, 45, 18). Clodius had large possessions along the *via Aurelia* (Phil. 12, 23) and harassed those who paid a rent to the state for the use of the forests. Cf. 50, l. 29.

30 **videbatis**: "you often saw"; cf. my n. on Cato Maior (De Sen.) 49.

32 **significavit...dixit**: a similar contrast in Verr. 2, 2, 148; De Har. Resp. 25.

33 **Favonio**: by imitating and exaggerating Cato's many peculiarities he had earned the name of "Cato's ape" or "Cato's shadow."

§ 27. P. 35.

3 **interim** etc.: as to the whole *narratio* of Cic., see App. B.

4 **neque enim**: so Pro Clu. 45 *id cum sciret Oppianicus, neque enim erat obscurum.*

5 **sollemne**: properly used of religious rites recurring yearly.

6 **prodendum**: so *prodere interregem.*

7 **Lanuvii**: locative not genitive. The locative of names in *-ium* ended in *-ii* even in times when there was no genit. in *-ii;* Ennius has *Brundisii* (in hexam.).

subito: see Ascon. 36.

8 **fundum**: "homestead"; a small estate with a dwelling-house.

9 **atque ita profectus est**: similar repetitions in 21, l. 1; 44, l. 21; 58, l. 14; 61, p. 49, l. 3 and often in Cic.

10 **in qua...quae...quam**: note the relative at the beginning of three successive clauses.

11 **obire**: "to be in readiness at the place and time for the deed."

§ 28.

13 **dimissus**: the regular word for the senate's breaking up.

14 **calceos**: the *mulleus* or *calceus patricius* was worn by senators who had held curule office. It was of red leather and had a crescent (*lunula*) of ivory sewn on. The *calceus* worn by other senators seems to have differed from this chiefly by the absence of the *lunula*.

vestimenta: Cic. has *vestitum*, *vestimenta*, *vestem mutare*, but the last phrase is only used of going into mourning.

16 **id temporis**: a constr. proper to *duration* of time is in this and like phrases applied to *point* of time; cf. Roby § 1092.

cum potuisset: cf. 69, l. 6 *erit illud tempus...cum desideres;* in both cases we have a kind of consecutive *cum*-clause, similar to the consecutive *qui*-clauses. See W. G. Hale, "Cum-constructions," p. 140. Here *posset* would be more natural. It may be that *potuisset*, in addition to completing the constr. of *cum*, has an independent force, and means lit. "would have been able." Subjunctives which thus perform two functions are not common, but exx. are found here and there throughout Latin. A good instance is Hor. sat. 1, 9, 47 *dispeream ni summosses.* Cf. 38, l. 19 *cum libens agnovisset;* 55, l. 18 *diceres.*

18 **raeda**: a very large carriage, big enough to contain the *tota domus* of Umbricius (Juven. 3, 10). The word is one of several denoting wheeled vehicles, which were imported, with the vehicles themselves, from Gaul; so *covinnus*, *carruca*, *essedum*, *petorritum*.

19 **quod numquam**: sc. *fecit*, a common ellipse; so 55, l. 14; cf. Phil. 14, 24 *quod ergo ille re, id ego etiam verbo.*

21 **veheretur**: "was riding"; practically a deponent verb, as is shown by the phrase *vehens equo* "riding on a horse."

paenulatus: contrasted with *expeditus* in l. 18; cf. 54, p. 46, l. 2 *paenula irretitus.* The *paenula* was a heavy cloak closely buttoned and without sleeves; cf. l. 27 *reiecta paenula* (to free the arm); and see Mayor's exhaustive n. on Juv. 5, 79.

22 **delicato**: refers to *puerorum* (singing boys); cf. Martial. 10, 62, 3 *delicatae chorus mensae* (of a school).

§ 29.

24 **hora** etc.: see Introd. § 6.

25 **cum telis**: n. on 11, l. 5.

27 **acri animo**: =*acriter*; so the Italian adverbs in *-mente* and the French in *-ment* have come from the combination of *mente* with an adj. (cf. 61, l. 19).

28 **recurrere...caedere**: historic infinitives, if *incipiunt* be omitted. Cic. is free in the use of the hist. inf. considering his small need for narrative: there are e.g. about 20 exx. in the Verrine speeches, and about 12 in the letters to Atticus. Caes. Liv. use it less than Sall. Tac., and it is a favourite constr. with the comic poets and Verg.

29 **quod...putarent**: for *quod, ut putabant, interfectus esset.* A similar irregularity occurs with verbs of speaking; Roby, § 1746; but see crit. n.

32 **praesenti**: 62, l. 8 n.

33 **succurrere prohiberentur**: the constr. with infin. is much commoner in Cic. than the subj. with *ne* or *quo minus.*

P. 36.

2 **derivandi**: first used of drawing water from a stream into an artificial channel; often in Cic. of shifting a charge from one person's shoulders to those of another; so Ad Att. 4, 3, 2 *poterat infitiari, poterat in alios derivare;* Ter. Phorm. 2, 2, 9 *in me omnem iram derivem senis;* Lucret. 2, 365 *derivare animum* "to divert the thoughts."

§ 30.

6 **sicuti**: this and *sicut* seem to be used indifferently by Cic.

7 **vi victa vis vel**: alliteration is particularly common in Latin with the letter *v*; cf. Lucr. 5, 993 *viva videns vivo sepeliri viscera busto.*

8 **nihil...nihil...nihil**: for the repetition of the same word at the heads of successive clauses (called *anaphora* by the grammarians) cf. 20, l. 32 (*tam*); 32, ll. 4, 5, 6; 34, ll. 16, 17; 41, l. 26; 42, p. 42, l. 3.

9 **sane**: is used both of an admission made by the speaker himself, and of one which he expects others to make; sometimes = "as I admit," sometimes "as you must admit."

10 **natus est, ut...potuerit**: Roby § 1516. Note the imperfect *servaret*; and cf. Phil. 14, 17 *interposui non tam ut...dixerim* (so all the MSS.)... *quam ut monerem.*

11 **si...sin**: this form and *sive...sive* are regular, but not *si...sive.*

14 **natura**: so 10, l. 30.

15 **ope**: Ad Att. 14, 14, 6 *omni ope atque opera enitar.*

capite: not really different from *vita*, and often put together with it, as Pro Caec. 63.

§ 31.

19 **quod si ita putasset**: here *quod* is pronoun and object to *putasset*; cf. *hoc ita sentit* in l. 22 ("takes this view of the matter"). *Quod* at the

beginning of a sentence followed by *si* or *nisi* or *ut* is usually a conjunction equivalent to "whereas," "however" (15, p. 31, l. 4; 9, l. 13; 51, l. 31; 61, l. 18; 68, l. 17), though originally an accusative of respect, literally, "as to which matter."

optabilius fuit: "it was preferable"; so *aequius erat* or *fuerat* is often found in the apodosis of a conditional sentence, though the protasis has a verb in the subjunctive; similarly *opus erat, oportuit* and other impersonal expressions. Cf. 40, l. 18; 58, l. 22; 103, l. 12.

20 **non semel**: "more than once"; possibly only here in Cic., who has elsewhere *non semel sed saepe* or *saepius, plus quam semel* (De Off. 3, 61); *semel et saepius* (Phil. 14, 22). *Non semel* in Hor. od. 4, 2, 50.

21 **iugulari**: so Pro S. Rosc. 29 *quem ipsi cum cuperent non potuerunt occidere, eum iugulandum vobis tradiderunt.* The metaphorical use is common.

25 **factas...factum...factae**: so 97, l. 6 *praemiis...praemiorum...praemium;* this kind of repetition was called *traductio* by some rhetorical writers.

P. 37.

2 **ut ne**: used not only in clauses expressing purpose, but in consecutive clauses (as probably here); see n. on Pro Sull. 27 (Pitt Press ed.).

sit: the subject is *hic*; cf. De Leg. Agr. 2, 9 *ut impune in otio esse possemus;* so *sum libenter*, common both in prose and verse. *Impune* is neut. of a lost adj. *impunis*, like *abunde*.

§ 32.

5 **belua**: so 40, l. 15; 85, l. 17. Of over 20 passages where the word occurs in Cicero's speeches, that above in 30, l. 14 is the only one where it is not applied to a person; *bestia* is not so applied without comparison being indicated.

6 **illud...valeat**: "let the question of Cassius 'who benefited by the deed' apply to such characters as this." Cassius was tribune in 137, when he carried a law introducing secret voting in courts, and was consul in 127. He was a severe man (Brut. 97) and his judgment-seat was called *scopulus reorum* (Val. Max. 3, 7, 9); cf. *Cassiani iudices*, Pro S. Rosc. 85; and, for his question, ib. 84.

7 **cui**: of course not in agreement with *bono*.

fuerit: the indirect question depends on words omitted, such as *cum quaereret.* For a similar ellipse, see n. on 16, l. 21.

personis: *persona* is not "person," but "typical character"; so Pro Flacc. 53 *Maeandrii persona* "the type to which M. belongs."

8 **emolumento**: literally, what is ground out of the mill; not restricted like our "emolument" but applied to any kind of gain, mental or material.

improbi saepe parvo: the addition of this clause is slightly irregular, as it stands not in contrast, but in harmony with the words which precede *etsi*. There is a clause similarly attached after *etsi* in Tusc. 1, 82, and after *tamen*, below, 33, p. 38, l. 8.

9 **adsequebatur**: we have really a conditional sentence here, the abl. abs. supplying the protasis and the verb in the apodosis being indicat.

12 **si non...at certe**: a not uncommon form in Cic. and other writers.

13 **eludere**: not "to have free scope" (as Halm and some other edd. interpret) but "to make a mock of us"; cf. De Div. 2, 145 *quae est ars coniectoris eludentis ingenio?*

cogitatis: "deliberate," "calculated," as in 45, p. 43, l. 3. For the oxymoron (2, l. 12) with *furoribus* cf. Ter. Eun. 1, 1, 18 *ut cum ratione insanias;* Hor. sat. 2, 3, 271 *insanire...certa ratione modoque.*

15 **reprimere** etc.: see crit. n. (App. C).

17 **corroboratam...audaciam**: cf. Tac. An. 14, 1 *vetustate imperii coalita audacia.*

§ 33.

18 **hospites**: De Orat. 1, 249 *ne in nostra patria peregrini atque advenae esse videamur;* in Ad Fam. 2, 12, 1 Cic. being away from Rome begs for news, "*ne hospes plane veniam*" (i.e. when he returns).

20 **quas...fuerit**: dependent on *sermone*; see n. on 16, l. 21.

si leges etc.: cf. Pro Dom. 128 *tua lege, si illa lex est ac non vox sceleris et crudelitatis tuae.*

21 **faces**: the metaphor is common; cf. 98, l. 14.

22 **fuerit impositurus**: n. on 48, l. 5.

inusturus: a metaphor from branding slaves, but widely used of some evil reputation or disadvantage which cleaves to a person, or some painful or angry feeling which sinks into his heart. It is rarely applied to good feelings, as in Pro Planc. 29; Propert. 4 (5), 11, 74.

23 **exhibe, exhibe**: repetitions of the kind are frequent in the speech, as 37, l. 27; 69, l. 6; 72, p. 53, l. 5; 80, l. 22; 84, l. 2; 91, l. 31; 93, l. 25; 104, l. 19. The word *exhibere* sometimes has a technical legal use as in *actio ad exhibendum*, proceedings to compel a man to disclose or produce something.

librarium: "book-case"; an exaggeration for *capsa* (a despatch-box or desk). Cic. does not employ *scrinium*, so common in later times. *Librariolis* in De Leg. 1, 7 is probably a dimin. of this, not of *librarius* (as edd. and dictt. say).

25 **Palladium**: the allusion is not to the robbery of the shrine of Pallas in Troy by Ulysses, but to the rescue from burning Troy of the image of the goddess by Aeneas.

26 **videlicet**: here ironical, like *scilicet* in 57, l. 3.

28 **adspexit**: the change from the second person to the third is striking, but not unexampled. The sentence is a sort of "aside" addressed to the audience. There are changes still more remarkable in In Pis. 78; cf. too Phil. 2, 43 where an "aside" to the jury is similarly interposed in the course of an address to the opponent; so Phil. 8, §§ 17, 18. [See crit. n.]

oculis: "glance," as often.

29 **omnibus omnia**: the collocation of different parts of *omnis* is frequent both in prose and in verse. Cic. is alluding, I think, to the time of the funeral of Clodius, not (as most edd. say) to the events of 58 and 57 B.C.

P. 38.

1 **lumen curiae**: the reference is to the burning of the senate-house. Whether there is also a play on the meaning of *lumen* explained in n. on 21, p. 33, l. 8, is doubtful. The two senses may thus be combined: "I am of course impressed by the shining light of the senate-house."

quid? This little anticipative question is almost always followed (like τί δέ;) by a second question.

tu me tibi: the pronouns tend to come together in Latin; so *huic ego vos* in 37, p. 40, l. 3.

4 **cadaver**: note that this word is, until the time of Silver Latin, usually applied to the dead bodies of despised men, such as criminals or slaves; and cf. 91, l. 31.

5 **imaginibus**: the funeral ceremony for a man of rank was elaborate and was treated as a public affair. The representative of the deceased (*dominus funeris*) figured as a magistrate for the nonce; the procession was much like that which took place just before the games at the circus (also called *pompa*). Musicians and wailing women went in front, then came a train wearing the wax masks (*imagines*) of the deceased's ancestors, with the garb of the highest office which each had held in life. Then mime-actors, dancers, jugglers, jesters, men dressed as Satyrs

Fauns, Sileni, *et hoc genus omne;* also spoils and other memorials of all the achievements of the family. The procession halted at the *forum* and a funeral eulogy was spoken from the *rostra*. Cf. 86, p. 59, ll. 3—8.

6 **infelicissimis**: with an allusion to *infelix arbor* as used of the tree on which men were hanged in early times—always a blasted or sterile tree (Liv. 1, 26, 6). Edd. quote *infelix lignum*, of the cross, from Sen. ep. 101, 14.

semustilatum: of Caesar's body in Phil. 2, 91; cf. below, 86, p. 59, l. 8 *amburęretur abiectus*.

canibus dil.: as in the case of a crucified slave.

7 **tamen...laudare**: n. on 32, l. 8.

9 **debeo**: as to the gap see crit. n.

§ 34.

11 **vicissim**: Cic. does not use *invicem*.

13 **non dicam**: parenthetic; so often and also *non dico* (35, l. 5).

admitteret: so 64, l. 26; the full phrase is *admittere facinus in se* as in 103, l. 6.

14 **flebat**: sc. *consul*; n. on 25, l. 18.

15 **nec me** etc.: "nor did he find me a better canvasser." For *utebatur* cf. Ad Fam. 1, 9, 14 *usus es quibusdam...fortioribus in me restituendo quam fuerant in tenendo. Suffragator* never means "voter" in good Latin, nor *suffragari* "to vote for," nor *refragari* "to vote against."

16 **vos**: the jury are here identified with the Roman people, as in 37, p. 40, l. 3; 63, l. 19; 78, l. 13; 81, l. 28; and often elsewhere.

17 **remque publicam**: *res publica* was probably not treated as a single word in Classical Latin.

18 **tum**: "at the time"; the occasion is not exactly known.

20 **quis civium**: somewhat rare for *quis civis;* the only parallel in Cicero's speeches is in Pro Dom. 85.

22 **solutam fore**: not strictly a future passive inf. of *solvo*, since *solutus* is equivalent to an adjective (2, l. 8 n.), but the proper fut. pass. inf. is very frequently replaced by this combination. *Solutam* "unshackled"; *constringere* "shackle."

is: "some one"; *eum Milonem unum esse:* "that Milo was the only man."

24 **dubitaret**: Roby § 1610.

27 **huic uni concessa**: the meaning of *singularis* is practically repeated; cf. n. on 1, l. 6.

30 **ne...metueretis**: a possibly unique example of a *ne*-clause in place of the ordinary accusative after *adipiscor*. There is an isolated ex. of an *ut*-clause in Verr. 2, 2, 51.

31 **consulatus**: the connexion indicated by the gen. is here, as often, very loose.

§ 35. P. 39.

4 **at**: =*at enim*, as often.

5 **poenitor**: this is the only pass. in Cic. where the word occurs; he desired to find another word with the same meaning as *ultor* (cf. n. on 1, l. 6). So De Orat. 1, 220 *iracundia...cupiditas poeniendi doloris.*

7 **quid odisset**: *quid* is a kind of cognate acc. =*quod odium.*

8 **odisset**: here and in l. 10 an imperfect subj. would have been used, had one existed in connexion with the verb.

segetem: "harvest-field"; probably an unparalleled metaphorical use, but *seges* is "harvest-field" in the literal sense in Orat. 48; Martial. 5, 42, 4 *non reddet sterilis semina iacta seges.*

9 **omnes**: nom. not accus.; *civile=omnibus civibus commune.*

10 **ille...odisset**: "it was natural that he should hate"; so Pro Cael. 14 *magis est ut ipse moleste ferat quam...* "it is more natural that he should himself feel annoyance than...." Sometimes *est ut* merely means "it comes about that" (cf. *fore ut*), as in Hor. od. 3, 1, 9 *est ut viro vir latius ordinet arbusta sulcis.* The constr. is rare altogether, and is sometimes merely periphrastic. Thus *erit ut possit* in Lucret. 3, 715 is as pleonastic as *fit uti fiat* in 6, 727, nor does *est igitur ut mirandum sit* in Cic. De Div. 1, 128 differ from *mirandum est.*

12 **reus Milonis**: so (of Socrates) Hor. sat. 2, 4, 3 *Anyti reum;* Cic. Verr. act. pr. 6. Similarly in Plin. ep. 1, 5, 3 a *delator* speaks of the men whose death he had compassed by prosecution as *mei mortui.*

lege Plotia: see n. on 39, p. 41, l. 8.

13 **tyrannum**: cf. *regnaturum* in 43, l. 11.

14 **in homine iniusto**: "for a wrongful man, how rightful even?" i.e. being *homo iniustus*, Clodius might well feel that he had a right to hate Milo. See crit. n.

15 **quam etiam iustum**: Cic. is fond of separating *quam*, *tam* from the words they qualify, by one word as here.

§ 36.

17 **defendat**: 14, l. 18 n.; the change to the plural *haec eadem coarguant* is curious.

18 **nihil...Milo**: Cic. could hardly have put these words in the mouth of his opponents, unless the feeling against Milo for his violence had been so strong as almost to obscure the remembrance of violence used by Clodius.

19 **cum cessi...timui**: n. on 39, p. 41, l. 2, and for *cessi* 103, l. 12 n.

22 **diem dixerat**: Cic. names the different *legitimate* courses which Clodius, being tribune in 58, might have taken against him, instead of the course actually taken, which Cic. declares to have been *illegitimate.* First, Clodius might have begun a prosecution of Cic. before the *quaestio* which tried charges of treason (*maiestas*), under a law of Saturninus (*lex Apuleia*) amended by one of Sulla (*lex Cornelia*). Secondly, having power to summon the tribes to meet, he might have proposed to them a bill to fine Cic. to a large amount (*multam irrogare*). Thirdly, he might have set on foot the old-fashioned procedure (rare after the *lex Apuleia*) for *perduellio*, in which case the charge would have been heard by the Centuriate assembly, with a praetor in the chair.

23 **actionem**: neither this word nor *intendere* is often applied to criminal proceedings; cf. *actio maiestatis* in Quint. 5, 10, 39.

perduellionis: the word meant originally traitorous communication with the enemy (*duelles*); *per* conveying the idea of evil dealing, as in *periurus*, *perperam* etc.

videlicet: ironical; follows the ironical *credo* in the same way in Pro Planc. 72.

24 **aut mea**: see n. on 8, p. 28, l. 8.

25 **servorum**: a sentence or clause sharply contrasted with the preceding is often thus introduced without any adversative conjunction (*asyndeton adversativum*).

27 **nolui**: the statute passed by Clodius outlawed those who had put citizens to death without a trial. Cic. was not named in it, and always contended that the statute was illegally passed and that he retired merely to prevent a civil war.

§ 37.

hunc ipsum: the great orator Hortensius was not a member of the jury, but was present in court, to give support to Milo (*adesse*, l. 29). He died soon after.

28 **lumen**: combined with *ornamentum* and applied to a person in Prov. Cons. 22; cf. Phil. 2, 37.

29 **turba**: not "crowd," but "riot."

30 **Vibienus**: Ascon. 33 *complures noti homines elisi sunt, inter quos*

Vibienus senator. While Asc. refers the death to the time of the burning of Clodius, Cic. attributes it to an earlier date. Neither Dio C. 38, 16, nor Cic. himself, in narrating elsewhere (as in the speech for Sestius) the events to which he here alludes, makes any mention of the death of Vibienus or any other senator.

cum...cum: Cic. often thus places close together the conjunction and the preposition. Similarly 43, l. 9 *hoc...in hoc;* 47, p. 44, l. 1 *ne quod ne.*

P. 40.

1 **itaque**: no more here than "well then," "to proceed"; so *igitur* is used not uncommonly.

2 **sica**: *hasta* is thus often personified, as Ad Fam. 9, 10, 3 *ne...hasta refrixerit.*

acceperat: Clodius had been Catiline's enemy; but Cic. often treats him as the true successor of Catiline.

4 **Pompeio**: 18, l. 11; Papiri, 18, l. 2.

5 **sui nominis**: *sui* as though Clodius and not *sica* were the subject of the sentence. Slight irregularities of this kind in the use of *suus* are not infrequent; cf. 44, l. 21.

7 **ut scitis**: *ut nostis* does not seem to have been used by Cic.

ad regiam: see Ascon. 48. The *regia* in the forum was the official residence of the *pontifex maximus*, who succeeded to the authority of the kings over sacred matters.

§ 38.

8 **quid etc.**: "where is the parallel in Milo's case?" Pro Planc. 61 *quaeris quid simile in Plancio* (where it is not necessary to insert *sit* as most edd. do); In Cat. 4, 13 *quorum quod simile factum?* The ellipse of the verb *esse* in brief questions or brief clauses is very common; so 43, l. 9; 49, l. 14.

cuius vis etc.: Milo's proceedings are spoken of in very similar language in Pro Sest. 92; Post red. 19.

9 **ne...teneret**: explanatory of *haec.*

10 **quantae quotiens** etc.: but in Pro Font. 16 *quales et quot et quotiens;* cf. n. on 61, l. 18 *tot tam. Fuerunt* is of course not strictly apodotic to *si...*; there is a suppressed clause such as *quibus usus esset.*

11 **potuitne**: *ne* for *nonne*, as often.

13 **civi**: if the MSS. of Cic. are to be trusted, he used as abl. both *civi* and *cive*, *navi* and *nave* etc.; but the best MSS. give the form in *-i* so much oftener than that in *-e*, that we may suspect the former to be alone genuine.

14 **volnerato**: the story is told in Pro Sest. 76—79.

16 **iustissimi...praetoris**: cf. l. 22. Cic. here wishes to lay stress on the fact that the justice and courage of L. Caecilius were shown in his capacity of praetor; otherwise he would have written *L. C. praetoris, iust. fortissimique viri.* See Ascon. 48.

18 **totius...concursus**: words used elsewhere (as In Pis. 34) of the assembly which voted the recall of Cic. from exile.

19 **mea salus**: "the question of my restoration"; *salus* as in 39, p. 41, l. 1.

agnovisset: "would have recognised," sc. *suam* "as its own," because the deed would have chimed in with men's sympathies. *Vindicaret*, impf. for plup. as in 23, l. 28 and often. For the subjunctives, see n. on 28, l. 16; and for the change of tense 39, p. 41, l. 6 *interemisset...cogitaretur;* and *confideret* in 61, p. 49, l. 1.

21 **pro sua**: so De Rep. 1, 27 *pro suis vindicare;* Phil. 13, 14 *uti pro suo;* but *pro* is sometimes replaced by *ut*.

§ 39.

quod...tempus! "what an occasion it was!" So below 75, l. 6 *cui viro;* 80, l. 16.

22 **clarissimus** etc.: the sentence is loosely constructed, consisting of an enumeration to explain *tempus*.

23 **illius**: dependent on *sceleris*, not in agreement; so 52, ll. 9, 10.

24 **patronus**: n. on 16, l. 15.

25 **septem**: out of eight.

26 **auctor et dux**: often together, as Pro Sest. 20; De Fin. 2, 66.

27 **hostis**: at that time; see 21, p. 33, l. 6 *reconciliatae gratiae.*

omnis: here for *totus*, as occasionally.

P. 41.

2 **cum fecit...dedit**: the indicatives mark the two actions as contemporaneous, or as two different aspects of the same action; so 36, l. 19; 103, l. 6. When *cum* with perf. ind. is followed by a pres. tense, *cum* has the sense of *quotiens* (Madvig on De Fin. 5, 41).

3 **Capuae**: in which town Pompey was one of the chief magistrates.

cupienti: so Caes. B. G. 3, 19, 1 *suos hortatus cupientibus signum dat;* Cic. Pro Dom. 30; Har. Resp. 46; cf. De Fin. 5, 6 *te hortamur omnes, currentem quidem, ut spero.*

5 **concurrerent**: *Italia* is treated as a 'noun of multitude'; cf. Pro Cael. 66 *mulieraria manus*, followed by *comprehenderint*; Pro Scaur. 38 *natio, by putent;* Academ. 2, 103 *Academia, a quibus* (where see my n.).

6 **qui**: =*si quis*, as constantly in old statutes and formulae. For the tense of *cogitaretur* see 38, l. 19 n.

8 **bis**: in 57, when Milo was tribune, he tried to arraign Clodius for violence under the *lex Plautia* (or *Plotia*) (13, p. 30, l. 3 n.), but was stopped by *nova novi generis edicta*, put forward by some magistrates, prohibiting the prosecution (Pro Sest. 89; cf. Ad Att. 4, 3, 5). This can hardly be the same prosecution with that mentioned in 32, l. 12 as hanging over the head of Clodius at the time of his death. The exact references in the word *bis* cannot be determined.

§ 40.

9 **privato**: as it was the rarest thing to arraign an actual magistrate, this prosecution took place just after Milo ceased to be tribune, when Clodius was aedile (in 56); the charge (brought before the tribes) was that M. had employed gladiators to secure Cicero's recall. After most turbulent scenes, Clodius dropped the charge.

11 **impetus**: see Ad Qu. Frat. 2, 3, 2.

13 **Antonius**: see Phil. 2, 21; Clodius hid himself in a book-shop close to the forum.

14 **gravissimamque** etc.: it will be seen that the words here are cunningly arranged for effect.

rei p. partem: merely "public duty"; cf. Verr. 2, 1, 5 *mihi videor magnam rei publicae partem suscepisse;* Pro Rabir. perd. r. 20 *tum magnam rei publicae partem tenebat* "was prominent in politics."

15 **laqueos**: the metaphor (a favourite one with Cic.) is carried on by *irretitam* ("netted"). Nets were greatly used by the ancient hunters.

16 **locus**: "opportunity"; not essentially different in sense from *tempus* or from *occasio* above (l. 11).

18 **abdidisset**: the usual constr. in the best Lat. is *in* with acc. not abl.

fuit: n. on 31, l. 19.

§ 41.

20 **comitiis**: an ablative expressing point of time: "at the time of the election"; so *ludis*, *bello*, *pace;* a rarer instance is *consulatu* (De Orat. 1, 3).

potestas: sc. *occidendi.*

21 **saepta**: also called *ovile* "sheepfold"; an enclosure in the Campus Martius into which the voters passed at meetings of the centuries.

23 **vota**: 76, l. 23.

uti: "to give full play to."

26 **loco**: "at a fitting place"; so often; cf. Hor. od. 4, 12, 28 *dulce est desipere in loco* (where *loco* is of time); Pro Sest. 80 *non percussit locum*; so *in tempore* is often "at the right moment."

28 **periculo capitis**: Quintilian and Cassiodorus quote the passage with *cum*. Both *periculo capitis* and *cum per. c.* frequently occur in Cic. and elsewhere.

occidere: in a negative sentence, or an interrogative sentence to which a negative answer is expected, *dubitare* takes an infin. when it means *to hesitate to do something*, but a subjunct. with *quin* when the sense is *to be in doubt whether certain facts are true*. Exceptions are rare; see n. on Cato Maior (De Senect.) 16, Pitt Press ed. There is one below, 63, l. 17.

§ 42.

29 **praesertim cum**: "in spite of the fact that," a sense equally frequent with the other "particularly as." *Cum praesertim* is also common (81, l. 29).

honoris contentio: for *de honore*; a common gen.; cf. 23, l. 30 n.

31 **ambitio**: substituted for the *homo ambitiosus* ("*res pro persona*").

P. 42.

1 **veremur**: see crit. n. For the arrangement of the sentence cf. 20, l. 30 n.

3 **tam molle** etc.: "so yielding, so plastic, so—shall I say perishable or pervertible?"

4 **voluntas...sensus**: both words are often employed to express "sympathy"; say here "favour and sympathy."

6 **fastidiunt**: rare without an accus.; but *fastidium, fastidiosus* are often followed by *in* with abl.

§ 43.

campi: =*comitiorum*; in De Nat. D. 3, 69 *curia campus*=senate and people.

speratum...exoptatum: "the object of his hopes and prayers." *Optare* is to wish for exceptional good fortune; cf. Liv. 4, 15, 6 *Sp. Maelium, cui tribunatus magis optandus quam sperandus fuerit* "a thing rather to be prayed for than hoped for"; Caesar ap. Cic. Ad Q. Fr. 2, 10, 4; and my n. on Pro Balb. 9 (Pitt Press ed.). So *spes* and *votum* are sometimes contrasted.

9 **non credibile**: for omission of *est* cf. 38, l. 8 n.

10 **cum**: see crit. n.

11 **regnaturum**: cf. *tyrannus* in 35, l. 13.

caput: "fountain head"; De Leg. 1, 33 *caput exitiorum omnium;* Tusc. 4, 83 *fons miseriarum et caput;* a different sense below 53, l. 17. A *quod*-clause is not unfrequently placed in front of the words which are necessary to explain it.

12 **illecebram**: the sing. is rare; the exx. are mostly in Plaut. Ter. and in Cic., who is fond of using the sing. of words which are more commonly restricted to the plural, e.g. *blanditia, latebra.*

14 **praeclari**: i.e. if he chose to claim credit for it; cf. 77.

17 **fas**: the unwritten law; above, 10, l. 29 n.

§ 44.

18 **sed quid**:...a form of transition as in 18, l. 8; *argumentor*: "go on with proofs?"

19 **Petili**: unknown.

20 **divina**: "the lot, providentially, I may say." For *quaedam* see n. on 21, l. 3.

21 **sibi**: as though Favonius were subject of the sentence; cf. 37, p. 40, l. 5.

22 **triduo**: "within three days," i.e. in less than three days; but in 26, p. 35, l. 1 *triduo aut summum quadriduo.*

post diem tertium quam: "two days after," according to the Roman method of reckoning. *Quam* implies comparison, as in *pridie quam, prius quam* etc. "Two days after" might also have been expressed by *post diem tertium eius diei quo* (cf. Tusc. 1, 114; Ad Att. 3, 7, 1). But *ante diem tertium quam* occurs first in Velleius.

§ 45.

26 **modo**: in 27.

stata: an archaic word in Cicero's time, and restricted to a few sacred or legal phrases; but again more widely used in Silver Latin; as e.g. *stato tempore.*

27 **negoti nihil**: the gen. is partitive, lit. "nothing of a business"; so often *quid est negoti?* with inf.

28 **antevertit**: "stole a march"; a somewhat rare word.

P. 43.

2 **ipsius**: directly dependent on *mercennario* (substantive not adjective) which is properly used of a hired labourer. *Tribuno pl.* is in apposition.

3 **clamores**: "cheers."

4 **approperaret**: n. on 23, l. 28.

7 **ut...sic**: these words couple unlike things as well as like; for an extreme instance cf. Caesar B. G. 7, 30, 3 *ut reliquorum imperatorum res adversae auctoritatem minuunt, sic huius ex contrario dignitas incommodo accepto in dies augebatur.*

§ 46.

8 **primum**: not followed by *deinde*, the constr. being changed.

9 **quod idem**: common, as well as *quod item.*

10 **ut...rogasset**: Roby § 1706.

13 **ex**: with *scio* the source of information is always denoted by *ex*; but *audio* is followed by *de*, *ex* or *ab*; so *quaero* (59, l. 8).

14 **unde**: often of persons: so *aliunde*, but not *inde.*

quaesierit: Roby § 1622; below, 49, l. 13.

16 **Arrius**: a man who rose from a humble rank to the praetorship; possibly the same who is ridiculed by Catullus 84 for dropping the sound of *h.*

18 **comes**: i.e. on the fatal journey.

iam pridem: Introd. § 2.

21 **Cyrum**: often employed by Cic., who in Att. 2, 3, 2 jests on his name, with reference to the *Cyropaedia* of Xenophon.

23 **item**: goes with *comes*, not *dixit.*

§ 47.

25 **liberatur profectus esse**: a noteworthy ex. of the constr. known as *nominativus cum infinitivo*, which is regular with verbs of speaking, hearing, thinking, knowing; cf. 49, l. 13 n.; 64, p. 50, l. 1; 66, l. 23. The ex. here is an extension of such usages as Pro S. Rosc. 37 *occidisse patrem S. Roscius arguitur;* De Inv. 2, 98 *cum vi quadam reus id quod fecerit fecisse defenditur;* Phil. 5, 14 *excuseturque Areopagites esse;* cf. Tac. Hist. 2, 74 *legiones secuturae sperabantur.* For *liberatur* cf. 7, l. 27 n.

26 **quippe**: this use of *quippe*, after a long stop, forming a clause by itself, is frequent in Cic. *Ille* is Clodius.

27 **cur non** etc.: "why I should not put in a stroke for myself?" Cic. defends himself with regard to one day only, whereas the accusation was probably general. Cf. Phil. 2, 21; Ad Att. 4, 3, 5.

30 **alicuius**: more definite than *cuiusdam.*

31 **describebant**: "depicted"; the word often (like *deformare* as opposed to *informare*) implies that bad features in a character are represented; --- *my n. on Pro Sull.* 82 (Pitt Press ed.).

...ibus: *n. on* 54, *l.* 3.

§ 48. P. 44.

3 **occurrit**: "the following objection meets us"; so De Fin. 2, 108 *quid occurrat, non videtis.*

5 **si quidem** etc.: often an elliptic conditional sentence (apodosis being omitted) with *si quidem*, as here, answers an objection; so De Fin. 3, 13.

exiturus...fuisset: the so-called "periphrastic" tenses made up of tenses of *esse* with a future partic. are common throughout Latin; but the occurrence in such a combination of a subjunctive tense of *esse* other than the present (as in 33, l. 22, and 51, p. 45, l. 2) is rare, and especially rare in conditional sentences. The reason for this is that, as the participle contains within itself the notion of an unfulfilled event, it is sufficient to put the verb in the indicative. So 47, l. 26 *si...obvius futurus non erat*, and 28, l. 16 *si...venturus erat;* also 100, l. 11. The union of the fut. part. with the plup. subj. of *esse* is of great rarity; an instance will be found in De Div. 2, 21 (in all MSS.). In these compound tenses the fut. part. often has a notion of purpose; thus in 6, l. 10 *deprecaturi sumus* "we *mean* to beg for pardon" differs from *deprecabimur*. In later Latin the partic. has this sense even when it stands alone, but not in Cic. or Caes.

6 **video**: this is not a reference to the affidavits (*testimonia*, 46, l. 16); but an inference of Cicero's own.

9 **una...simul**: not different in meaning; the two words are often combined.

obsignavi: i.e. "I set my seal to it as a witness." At a later time, no witness to a will could be *heres* under it; such too is the rule in our law. In the time of Cic. the oral will (known as "nuncupative"), so common later, was probably not in use; the testator had the choice of making the terms of his will known to the witnesses or of keeping them secret.

12 **efflantem**: Tusc. 1, 19 *agere animam et efflare.*

13 **nuntiabatur**: the impers. use of this verb is much less common than the personal use; cf. 66, l. 23 and 47, l. 25 n.

§ 49.

16 **properato opus**: the only ex. in the speeches of Cic. of this constr. *Quaesito opus est* appears twice in the Paradoxa, and in Ad Att. 10, 4, 11 we have *opus fuit Hirtio convento;* to parallel the attachment of the personal name to the participle in that passage we have to look to Plautus.

17 **amitteret**: 23, l. 28 n.

20 **si sciebat...fuit**: there seems to be little reason for the change of tense. The indicatives are used because Cic. is for the nonce assuming his opponents' allegation to be true.

21 **subsidendum**: Liv. 1, 14, 7 *subsidere in insidiis*.

22 **noctu**: Cic. seems to have used this word to express "by night," and *nocte* when an epithet was attached, or when the abl. was governed by a preposition, also in the phrase *die et nocte*.

§ 50.

24 **confitentem**: cf. Pro Ligar. 2 *habes confitentem reum*.

25 **primum...tum...deinde**: so in Pro Sest. 141.

occultator...locus: there is a sort of personification of *locus*. Many words in *-tor* and *-trix* are thus used in apposition to nouns, and often become almost adjectival. The commonest are *bellator*, *victor*, *venator*, *ultor*, *ultrix*; cf. Ad Q. Frat. 1, 1, 19 *corruptrice provincia*.

27 **ibi**: if genuine (see crit. n.) must be taken separately from *multi... violati*; and must mean not "there" but "thereupon" as in the combinations *ibi cum*, *ibi tum*.

29 **caderent**: 23, l. 28 n.

Etruria: see n. on 55, l. 13.

§ 51.

32 **reverti**: in the best prose the deponent *revertor* is used instead of the neut. *reverto*, excepting in the perfect, which is *reverti* (61, l. 21).

§ 52. P. 45.

3 **video**: is followed by *videamus nunc* in l. 17; so exactly in Pro S. Rosc. 92.

8 **nihil**: = *n. tale*.

9 **profectionis huius...reditus illius**: double genitives as in 39, l. 23.

11 **etiam potius**: so Pro Clu. 172 and often.

alienum: "inopportune."

13 **nullius rei**: "about no point"; *rei* is necessary, since the use of the gen. *nullius* as neut. noun is later than Cic.

15 **timeret...metuendum**: cf. 42, l. 33 sq.

§ 53.

17 **id quod caput est**: this parenthetic clause is frequent; so 83, l. 28 *id quod maximum est*, with the same sense.

19 **id...dubitandum**: the gerundive follows the usage of *dubitare* with

acc., which rarely occurs except where the acc. is that of a neut. pronoun (so *disserere, disputare, disceptare*, etc.); thus De Fin. 5, 55 *minime dubitanda iudicia naturae* is very unusual. There is hardly any verb in Latin, whatever its nature or ordinary construction may be, which cannot take an accus. of a pronoun or pronominal adj.; so *credere* below, 61, p. 49, l. 2.

20 **quo in fundo**: the repetition of the antecedent in the relative clause is less common in Cic. than in Caes., with whom it is a marked feature of style.

21 **substructiones**: a rare word; below, 85, l. 22.

facile: "quite"; so in Verr. 2, 2, 35; in colloquial English "easily" is sometimes applied to a numerical estimate in the same way. The employment of *facile* with superlatives may be compared.

hominum mille: so regularly in Cic., not *mille homines*. The singular verb with *mille* (read by some here) is not Ciceronian, except where *mille* goes with some word expressing money or space, in which case the sum or the distance is taken as a single thing. Thus Ad Att. 4, 16, 8 *ut mille passuum conficiatur;* and Phil. 6, 15 *mille nummum... expensum*. Note the emphasis thrown on *valentium* by its position.

22 **edito...loco**: cf. 29, l. 25 *de loco superiore*. *Superiorem* seems to be here used jestingly with reference to its double sense.

putarat: the plup. as in the common *non putaram*, where *non putavi* would accord better with Eng. idiom.

25 **loci spe**: the gen. as in Verr. 2, 1, 58 *spem peccatorum=de peccatis;* Pro Sull. 54 *Fausti simulatione=de Fausto;* n. on 23, l. 30.

§ 54.

res loquitur etc.: "the mere facts are eloquent, and the eloquence of facts is always most powerful." Cf. 66, l. 30.

27 **picta**: so men totally ignorant of philosophy are said never to have seen a philosopher even in a picture: De Fin. 5, 80 *qui numquam philosophum pictum, ut dicitur, viderunt;* cf. In Pis. 81 *virtus quam tu ne de facie quidem nosti.*

28 **alter**: there is slight anacoluthon, as no second *alter* follows; the circumstances of Clodius are dealt with in another way on p. 46, l. 3.

29 **impeditissimum**: "most embarrassing."

P. 46.

3 **uxore constrictus**: after a passive verb an abl. of a personal noun or pronoun often occurs without a preposition, the person being regarded

rather as a sort of instrument than as an agent. So *quibus* in 26, l. 28; and *suis testibus* in 47, l. 32 is not essentially different, as *iacent* there is the equivalent of a passive verb. Passages like Ovid. Heroid. 12, 161 *deseror coniuge*, are different; in them, the abl. is that of the agent, and the poet deliberately leaves out the preposition.

videte: "picture to yourselves" (cf. 6, l. 10); the presents *est* and *convenit* naturally follow.

6 **Pompei**: quite close to the villa of Clodius; both villas were probably afterwards embraced within the grounds of the villa of Domitian. Some ruins of Pompey's villa are said to be still visible.

7 **Alsiensi**: a villa at Alsium on the coast of Etruria.

8 **tergiversationes**: here merely "pretences," "feints."

§ 55.

10 **age...comparate**: in Cic. *age* has lost its literal force and become a mere particle of transition, "well then"; and so may be followed by a plural verb. Plautus sometimes uses *agite* when a plural follows, but not Cic., who often has *age nunc* (as here), *age vero* and *agedum*.

11 **semper ille** etc.: the omission of the verbs makes these short clauses crisper and more emphatic; cf. 38, l. 8 n.

12 **in equo**: the *in* is rarely omitted, as in Sall. Cat. 59, 5.

13 **Graeculi**: contemptuous, as in *Graeculus esuriens* (Juv. 3, 78).

castra Etrusca: to be understood with reference to 26, l. 29; 50, l. 29; 74, l. 28; 87, l. 22; Ascon. 50 is wrong in supposing that there is an allusion to the camp of Catiline.

14 **nugarum**: of persons (like λῆρος) in Pro Sest. 24 *boni nihil ab illis nugis esse expectandum*; Ad Att. 6, 3, 5 *amicos habet meras nugas*: Petron. Cena Trim. c. 58 (ed. Friedl.).

15 **symphoniacos**: in the Verrine speeches there is mention of a musical guild organised for divine service (*collegium symphoniacorum qui sacris publicis praesto sunt*). It is possible that *uxoris* has got displaced and should be put between *et* and *ancillarum*.

16 **qui**: here adversative, "although he."

17 **nisi ut**: = *nisi talem ut*.

virum a viro lectum: the allusion is to a custom prevalent in early times among several peoples of Italy (Latins, Samnites, Etruscans, Ligurians) whereby a few men were picked for military service, then chose others to serve with them, and so on till an army was gathered. In Verg. Aen. 11, 632 *legitque virum vir*, a different turn is given to the

phrase, which means there that each warrior marks out one of the enemy to be attacked.

18 **diceres**: cf. n. on 28, l. 16 *potuisset*.

19 **non numquam**: for the asyndeton cf. n. on 36, l. 25.

20 **quamquam**: this goes with *inciderat* to be supplied from the following clause. Cic. does not allow *quamquam* or *quamvis* to stand in a parenthetic clause with a participle or adjective, unless the verb of the principal clause can be supplied to the subordinate clause; though later writers have no such rule.

21 **mulier in viros**: cf. 89, l. 14 *homo effeminatus*. There is a bitter allusion to the discovery of Clodius at the ceremony of the Bona Dea, when he was *vir inter mulieres*.

§ 56.

sic non paratus: for *sic*, *ita*, with negatives and other expressions which, strictly taken, do not admit of being qualified, see my n. on Academ. 2, 55.

23 **ipse**: see crit. n.

24 **odio**: note that *odio esse alicui* is a kind of substitute for the missing passive of *odi;* similarly *contemptui esse* approaches the sense of *contemni; deridiculo esse* that of *derideri*, and so on.

26 **praemiis**: this must be a causal abl. not dat. dependent on *propositam;* which would give no intelligible sense. With *propositam* the dat. *Clodio* must be supplied. Render "which he knew to be a mark for his foe, and almost within the foe's grasp, because of the very great gain to him." [But see crit. n.]

addictam: an auctioneer who knocks down property to the highest bidder, or a judge who assigns property to a litigant, is said *addicere*.

27 **et sine**: n. on 10, l. 32. *Praesidio*, of any armed force; *custodia*, properly of a personal body-guard.

28 **adde**: although the jury are addressed; cf. n. on 55, l. 10 *age nunc*. Cic. often employs *adde* thus, but sometimes uses *addite*. *Adde* often occurs in Lucretius.

Martem communem: the expression is imitated from ξυνὸς Ἐνυάλιος. Mars is supposed to assign victory so capriciously that both combatants may go into battle expecting it. The phrase corresponds to our "fortune of war," and often has *belli* attached to it; cf. e.g. Liv. 5, 12, 1 *Sergio Martem communem belli fortunamque accusante;* ib. 10, 28, 1 *communis adhuc Mars belli erat, necdum fortuna discrimen fecerat*.

30 **ab abiecto**: this is usually interpreted to mean "by the agency of the downtrodden foe," Mars being supposed to use the beaten combatant as a scourge to smite the victor. No real parallel to this use of *ab* is produced; phrases like *a quo intereat* in Acad. 1, 28, where *interire* represents the passive of *perdere* (see 12, l. 29 n.), do not afford any actual support. It is better to understand "on the side of the defeated," "as the ally of the defeated," comparing Pro S. Rosc. 85 *clementissimus ab innocentia;* Pro Cluent. 93 *dicendi ab reo.* The phrase *dicere ab aliqua re* "to speak in favour of a proposal" is sometimes found.

31 **a tergo...extremis**: cf. 28, 29.

33 **cum incidisset**: this position of *cum* with the verb, far away from the beginning of the clause or sentence, is not very common in Cic. but is one of the minor features of Livy's Latin. So 60, l. 16.

haesit: the metaphor is from a vessel sticking on the rocks; cf. Hor. sat. 2, 3, 205 *haerentes adverso litore naves* with Tac. An. 4, 19 *nec dubie repetundarum criminibus haerebant.*

§ 57. P. 47.

3 **manu misit**: the word *manus* was applied in early Roman law to every kind of legal authority exercised over persons or property. It is seen in *man-cip-ium* and *e-man-cipare.*

indicaretur: the subject is Milo; but see crit. n.

4 **tormentis**: cf. App. B.

7 **nihil ad tortorem**: this use of *nihil ad* should hardly be called colloquial (as by Richter) since it occurs in all styles of Latin. Whether *nihil ad* means "nothing to do with" (as here) or "nothing compared to" (as often), the clause in which the words occur is always elliptic, without verb. See my n. on Academ. 1, 15.

8 **eculeo**: little is known of this instrument of torture. It was probably a wooden horse on which the sufferer sat with heavy weights attached to his limbs, and possibly impaled on sharp points.

11 **id**: see crit. n.

12 **nescis**: i.e. you might have made a point by saying that he only refrained from rewarding them richly because the act would tell against him in court.

§ 58.

13 **qui** etc.: a *verbum agendi* omitted as in 28, l. 19 and 55, ll. 11, 15. Cato was a Stoic, and his doctrine required the wise man to be staunch and unwavering in face of all circumstances.

15 **placata**: Orat. 63 *de rebus placatis ac minime turbulentis.*

16 **omnibus**: "all possible"; cf. 3, l. 13 *omnibus exitiis.* This emphatic use of *omnis* is often found.

18 **tam**: n. on 30, l. 8.

19 **propter** etc.: "to whom he owes his life"; cf. 81, p. 57, l. 6; 93, l. 29.

non tanti est quam: brief for *n. t. e. quanti illud quod.* The correspondence of *tantus* with *quam* is rather rare in Latin before Livy; the only other ex. in Cicero's speeches is in Verr. 2, 1, 4; in the philosophical works there is but one ex., viz. De Fin. 1, 11. The usage is Plautine and Lucretian.

21 **satiavit**: cf. *explesset* etc. in 63, l. 15.

22 **nisi...misisset...fuerunt**: the indic. often thus occurs with the gerundive in the apodosis, where subj. is in protasis, because the gerundive in itself implies a condition still to be fulfilled. Cf. n. on 31, l. 19.

24 **quod minus moleste ferat**: something like *quo magis gaudeat* might have been expected, but Cic. wishes to convey that there is no *gaudium* in Milo's case; nothing but degrees in sorrow. Trans. "which does more to lessen his grief."

25 **accidat**: "is going to happen"; the present subj. often thus replaces the cumbrous fut. subj.; cf. 4, l. 27. The euphemism as in the common phrase ἐάν τι συμβῇ.

meritum praemium persolutum: note the three words in succession with similar terminations.

§ 59.

27 **sed** etc.: the remark is one of Cicero's own and is not put by him in the mouth of his opponents. These *quaestiones* did really tell against Milo in public opinion. It is therefore not necessary to correct *sed* to *at*, nor yet to assume that it is used for *at* (in giving a supposed objection made by an opponent), of which usage there is no sure instance in Cic. or his contemporaries, though it is found in Virgil, Livy and other writers. For the facts see Introd. § 15.

28 **nunc**: occasionally thus found with a past tense. See my n. on Laelius De Amic. 11 (Pitt Press ed.).

atrio Libertatis: the torture took place by direction of the judge, under the superintendence of an officer named by him, in presence of counsel, and the evidence was recorded in writing. The *atrium Libertatis* was an official building in the forum, used for manumissions in presence of the *praetor urbanus*, and for much other public business.

29 **postulavit**: according to ordinary practice, it was for Milo to *demand* the torture of these slaves, and it was for Appius to *offer* them to him for torture.

P. 48.

2 **severius**: "with stricter propriety."

3 **incestu**: "pollution," of sacred rites. Cic. has omitted the case of treason, when the accused's slaves might be tortured to give evidence against him, by order of the senate (Part. Orat. 118).

qui proxime ad deos: see crit. n.

4 **cum penetrarat**: n. on 39, p. 41, l. 2.

6 **sed tamen**: resumptive after a parenthesis, as very frequently. So in 81, p. 57, l. 3, and also *sed* alone (75, l. 9), *tamen* alone, *verum tamen*, *igitur* (79, l. 32) are used.

non quin: the negative of *non quia*. In Cic. *quin* may follow a negative, but may not precede it; thus *quin ne...quidem* is not Ciceronian.

8 **in reum**: Halm quotes Ulpian, Dig. 48, 18, 1, 3 *ad quaestionem non esse provocandos eos quos accusator de domo sua produxit.*

de servo quaeritur: "inquiry is made of a slave"; *ex ab de* all occur with the ablative of the person questioned, after *quaerere*. Cf. 46, l. 13 n.

§ 60.

10 **quae aut qualis**: cf. 84, l. 8; Phil. 2, 48 *qui tum inde reditus aut qualis?* and often; see my n. on Academ. 1, 9.

heus tu: this is said by the superintending officer; called *quaesitor* in Pro Sull. 78.

Rufio: in the popular language masc. nouns and names in *-o* and *io* were much used.

verbi causa: this commonly represents our "e.g.," for which *exempli gratia* is only found once in Cic., viz. De Off. 3, 50. *Exempli causa* does not occur.

11 **cave mentiare**: *cavere* is constructed both with *ut* and *ne*, but when the subjunctive follows immediately, the omitted conjunction is always *ne* not *ut*.

sis: a colloquial word. Cic. uses it in only three other passages, Orat. 154, Pro S. Rosc. 48, and Tusc. 2, 42.

Clodius etc.: the omission of the interrogative particle is frequent in short, sharp questions like this.

12 **fecit** etc.: what Cic. says here might be said of *any* slaves under *torture.*

13 **subito** etc.: "even slaves seized on the spot for the inquiry," i.e. immediately after the events leading to the trial.

14 **arcas**: "cells." This use seems only to occur elsewhere in Paulus, from Festus p. 264 *robur quoque in carcere dicitur is locus quo praecipitatur maleficorum genus, quod ante arcis robustis includebatur.*

15 **centum dies**: 98, l. 17.

16 **eo ipso**: *idem ipse* is not good Latin; nor *is idem.*

§ 61.

18 **res ipsa...luceat**: so *res loquitur ipsa* in 54, l. 25.

19 **tot tam**: Cic. often writes *tot tamque* or *tot et tam* as in Verr. 2, 5, 150. Cf. n. on 38, l. 10.

argumentis signisque: "proofs and indications." The *signum* is less cogent than the *argumentum*; there is a similar difference between *σημεῖον* and *τεκμήριον*. See Ad Heren. 2, 6 and 8.

pura mente: n. on 29, l. 27.

20 **imbutum**: n. on 10, l. 32.

metu perterritum: a legal phrase, often employed to indicate action due to constraint.

21 **conscientia**: here consciousness of evil, but of good, below 83, l. 22, and of both, below, p. 49, l. 3. *Exanimatum* as in 65, l. 17; 93, l. 23.

22 **immortalis**: it is well known that Cic. generally attaches this epithet to the plural *di.* The passages where it is omitted mostly contain *di penates, di patrii, di omnes,* or short phrases like *di dent,* or a contrast between gods and men (as in 80, l. 15).

23 **reditus eius**: 52, l. 9 n.

24 **neque vero** etc.: the sentence gives a good ex. of the figure called *climax* (lit. "a ladder") by the Greeks, and *gradatio* by the Romans. A famous passage much resembling this is in Demosth. De Cor. § 179 *οὐκ εἶπον μὲν ταῦτα, οὐκ ἔγραψα δέ, οὐδ' ἔγραψα μέν, οὐκ ἐπρέσβευσα δέ, οὐδ' ἐπρέσβευσα μέν, οὐκ ἔπεισα δὲ Θηβαίους, ἀλλ' ἀπὸ τῆς ἀρχῆς διὰ πάντων ἄχρι τῆς τελευτῆς διεξῆλθον.*

27 **totam...omnem...cuncta**: somewhat like *solum...modo...tantum* below; exx. of *distributio,* for which see n. on 20, l. 30.

28 **pubem**: the fem. noun is only here used by Cic. (except in a poetical quotation, De Fin. 2, 18); once the adj. is used of a young man (Pro Rabir. perd. r. 31). Phrases like *Romana pubes* are common in the poets, Livy, and later; but Caes. has only *omnes puberes.*

P. 49.

1 **considerет**: n. on 38, l. 19 *agnovisset*.

omnia audienti: details are given in 65; for *magna metuenti* see §§ 63, 64—67; for *multa suspicanti*, §§ 67 sq.

3 **magna vis**: In Cat. 3, 11 *quanta conscientiae vis esset;* Pro S. Rosc. 63 *magna est vis humanitatis*.

et magna: for the repetition cf. 27, l. 9 n.

§ 62.

6 **ratione certa**: in this phrase *certa* means not "infallible" but "good," "well-weighed"; cf. De Div. 2, 16 *ei ipsi saepe falluntur qui nihil sine certa ratione opinantur*.

7 **videbant**: "looked to," "kept in view"; so in 21, p. 33, l. 3.

8 **praesentiam animi**: possibly occurs here only in Cic.; Caes. has the phrase once. *Praesens animus* (29, l. 32) is commoner.

11 **imperitorum**: i.e. indifferent people among the general public; cf. Pro Clu. 5 *opinionibus ac sermonibus imperitorum;* In Cat. 1, 30 *non solum improbi verum imperiti*.

§ 63.

12 **illud...ut**: 95, l. 21; 103, l. 16 (crit. n.).

13 **perdito**: "desperate"; often applied to persons; see crit. n.

15 **explesset**: cf. 58, ll. 20, 21. In verb-forms where *v* stands between vowels the second being followed by *r* or *s*, Cic. commonly used contraction. See my ed. of Pro Sulla p. 171.

19 **vobis**: as in 34, l. 29; cf. n. on 34, l. 6.

haec: often used thus idiomatically of the city of Rome, or of the Roman Empire; see my n. on Pro Sull. 32 (Pitt Press ed.).

20 **Catilinam...loquebantur**: *loqui aliquam rem* for *de aliqua re* is not very uncommon; but *loqui aliquem* for *de aliquo* is found here only in Cicero's speeches, and only once in the philosophical works. So *legere aliquem*, *audire aliquem* for *de aliquo* occur; see my n. on Academ. 2, 3.

21 **illa portenta**: "the monsters of that time," Catiline's associates.

22 **miseros**: Cic. uses both the nominative and accusative with or without the interjection *o*, in exclamations.

§ 64.

25 **vera exstitissent**: "would have proved themselves true."

29 **etiam...conscientia**: "if there had been consciousness even of slight faults." See crit. n.

30 **sustinuit?** in a similar corrective question at 76, l. 25 *dico* is added, as often.

31 **maximo animo**: = *etiam si m. an. esset.*

33 **frenorum**: the mention of bridles is intended to throw ridicule on the story. See crit. n.

P. 50.

1 **vicum**: may mean either "street" or "quarter."

2 **angiportum**: any narrow thoroughfare. *Portus* in this word originally meant "passage-way"; it is used of the door of a house in a fragment of the XII. tables.

Miloni: not quite the equivalent of *a Milone* but = "on Milo's behalf." In Cic. the personal dative with the passive verb is never quite a substitute for the ablat. with *ab*.

3 **Ocriculanam**: Ocriculum was on the Tiber, at the border of Umbria.

devecta: i.e. brought from northern Umbria down the river.

4 **domus**: the change from oblique to direct narration is noticeable, but not very rare (see 75, l. 5).

clivo: leading from the forum on to the Capitoline hill.

plena omnia: cf. Phil. 7, 25 *omnia videbitis...plena odiorum, plena discordiarum;* De Rep. 1, 67 *plena libertatis...omnia.* Only in two or three passages of Cic. is *plenus* constructed with an abl.

5 **malleolorum**: little hammer-like wooden implements, the heads being bound with inflammable matter. They were lighted and either thrown at an enemy's position or tied to arrows and shot. See In Cat. 1, 32.

§ 65.

7 **diligentiam**: n. on 23, p. 34, l. 5 *diligenter.*

10 **popa...de circo**: so Pro Clu. 163 *coponem de via Latina;* Orat. 47 *rabulam de foro.* The *popae* were attendants on the priests, and killed the sacrificial victims. How they were related to the *cultrarii* and *victimarii*, who formed a *collegium*, and had similar duties, is not known. The *circus* was haunted by jugglers, dancers, fortune-tellers, and by low people generally.

11 **servos**: gladiators, as appears from l. 19.

13 **coniurasse**: the subject *se* of the infin. is omitted as with *exiturum* in 52, l. 12, and often.

dein postea: in Latin there are many combinations like this which seem pleonastic; so *statim deinde, deinde ibidem, ibidem ilico,* in the Latin of Cicero's time, and later *tum deinde, mox deinde, hinc deinde.*

14 **in hortos**: so usually, not *ad;* cf. De Off. 3, 58 *ad cenam hominem in hortos invitavit.*

15 **de...sententia**: custom required every Roman to seek advice in all matters of moment, official or private, from those best qualified to give it.

defert: like *delata* above; *referre ad senatum* is different.

17 **metu**: on Milo's account; cf. 67, l. 5 *perhorrescimus.*

19 **quod**: = *tale ut.*

§ 66.

20 **cavebat...omnia**: Pro Sull. 85 *cum quaererem omnia, multa audirem, crederem non omnia, caverem omnia;* Phil. 12, 24 *nemo me minus timidus, nemo tamen cautior.*

23 **nemo...audiebatur**: "no ear had heard it...yet ear was given to it."

26 **timidum suspicari**: = *ut timidum,* or *pro timido;* cf. Pro Arch. 19, with n. and exx. in App. of Pitt Press ed.

27 **in Capitolio**: the selection of this place seems to mark the seriousness of the occasion. Meetings were held there to discuss the question of war, and regularly on Jan. 1 when new consuls entered upon office.

29 **nudavit**: Valer. Max. 2, 1, 7 *in sacrato loco nudare se nefas esse credebatur.* The *flamen* of Jupiter was not permitted to unclothe himself in the open air, *ne sub caelo tamquam sub oculis Iovis nudus sit* (Gell. 10, 15, 20).

§ 67. P. 51.

2 **Miloni**: *metuere* and *timere,* with dat. of person or thing on whose account fear is felt, are pretty common, *vereri* rare. For reading see crit. n.

4 **exaudire**: always of catching sound from a distance; see my n. on Sull. 33.

5 **inquam**: 79, p. 56, l. 5; 86, l. 32.

perhorrescimus: there was no *perhorreo* till late times, just as *exardeo* is not found for *exardesco.*

7 ***aliquid:*** *object to cogitare* as well as *molitum.*

non nulli conq. tui: = *ex conquisitoribus tuis;* cf. De Off. 2, 2 *libri nostri complures.* The *conquisitores* were officers sent into the country parts to enrol men liable for service.

8 **Capitolinae**: = *in Capitolio instructae.* Cic. is fond of using thus adjectives from names of places; so Ad Att. 8, 5, 2 *expectatio Corfiniensis.* Similarly *Clodianum crimen* in 67, l. 3 and 72, l. 28 = *crimen de Clodio.*

9 **excubiae...vigiliae**: generally the former were sentinels posted by day, the latter by night, but this distinction was not always observed.

delecta iuventus: the general's body-guard, commonly called *cohors praetoria.* Sometimes Livy calls this force *delecta manus* or *delectae cohortes* (ἀπόλεκτοι in Polyb.).

11 **armata est**: agrees only with *iuventus*, and is awkward as *haec arma* precedes.

12 **magna**: sc. *esse.*

13 **viri vires**: for the jingle (paronomasia), which neglects difference in quantity, cf. Att. 1, 16, 5 *fuerunt quos fames magis quam fama commoveret.*

si quidem...armata est: the clause substantially repeats the sense of the clauses with *si* preceding.

§ 68.

17 **sanares**: corresponds to *aegras* and *confirmares* to *labantis.*

locus: "opportunity," as in 40, l. 16.

18 **neminem...hominem homini**: cf. De Nat. D. 2, 96 *ut per biduum nemo hominem homo agnosceret.* This collocation of different cases of *homo* is common. Cic. and the best writers use *nemo* rather than *nullus* with *homo*, *civis* or other masculine nouns denoting persons.

22 **ad salutem...gubernatum**: *ad* is probably to be taken with *gubernatum*, the constr. being like that of *dirigere*, often employed of steering a vessel.

24 **periculo**: for the facts see 40, and for the word, 9, l. 25.

25 **duos**: this form of the acc. masc. was probably used by Cic. and his contemporaries and later writers, not *duo;* cf. my n. on Academ. 1, 17.

habere sperasse: pres. inf. as in 32, l. 13, and often elsewhere. In spite of the pres. tense of the inf., *sperare* in such cases really looks to future time. A hope is expressed about the present, but future time must test whether it is well grounded or not.

26 **probaret...cessisset**: n. on 38, l. 19.

27 **nullo ut**: in Cic. *ut* rarely precedes the negative.

29 **esset conquietura**: n. on 48, l. 5.

ne iste...cessisset: the affirmative *nē* is nearly always followed immediately by a pronoun, and introduces the apodosis of a conditional sentence. For *ne iste haud* cf. *ne tu haud* in Fam. 7, 1, 3; *ne ille non* in De Senect. 33.

iste: far oftener applied by a speaker to his opponent than to his client. Halm quotes parallels from Pro Clu. 201; Pro Planc. 99.

haud: the use of this word is somewhat restricted. Its chief employment is with *scio;* it rarely accompanies other verbs. It is found with a few adjectives and adverbs; and it always negatives merely the one word with which it is joined.

P. 52.

1 **is qui**: instead of a merely descriptive clause, the causal *qui* with the subj. might have been expected here. So in 70, l. 19 *qui tulit.*

ita natus: so *ea mente...natus* in 101, l. 20. *Ita* is loosely referred to the general drift of the sentence, as in Pro Mur. 62, and elsewhere.

2 **ante testaretur**: see crit. n.

etiam: "actually," like καὶ in Greek; as in 3, l. 14.

§ 69.

3 **volubilis**: the allusion is to the stone sphere, on which a statue of Fortune in ancient times was often poised, rather than to the wheel of the goddess (In Pis. 22 *fortunae rotam*). Cf. Pacuvius ap. Ad Herenn. 2, 36 *fortunam insanam esse et caecam et brutam perhibent philosophi | saxoque instare in globoso perhibent volubili;* Ovid. Ex Ponto 2, 3, 56 *stantis in orbe deae;* Cic. De Div. 2, 15 *volubilitate fortunae.*

4 **quam**: the succession *quantae quam quantae quantae* is curious. Perhaps *quantae et quam* is the true reading.

7 **et...dies**: 1, l. 6 n.

salutaribus rebus tuis: these words, often suspected, are quite sound; cf. Ad Att. 9, 11, 4 *et haec perdita sunt et illa non salutaria.*

8 **ut spero**: parenthetic *spero* without *ut* does not occur in Cic., though *opinor* is common.

motu...temporum: so *inclinatio communium temporum* ("national crisis") in *Pro Balb.* 58; Pro Dom. 46.

10 **hominis...viri**: the change is here due to *fortissimus* which is connected in hundreds of passages with *vir*, but very rarely with *homo*.

11 **unius**: cf. 77, p. 55, ll. 5, 6.

12 **desideres**: for the subj. cf. n. on 28, l. 16 and Post red. in sen. 3 *quod tempus erit cum...moriatur?*

§ 70.

13 **rei p.**: this sums up *iuris publici* and *moris maiorum*. Cf. n. on *fortunae* in 3, l. 11.

14 **ut videret** etc.: Introd. § 10.

15 **versiculo**: applied, like *versus*, to prose as well as metre. The word is used of a decree of the senate in De Leg. 2, 14, and of a line in a statute in Pro Dom. 44.

16 **etiam...datis**: i.e. even without a special direction to raise forces, such as Pompey had received.

18 **vi**: see crit. n.

19 **ista**: the things narrated in 64.

20 **qua...oporteret**: = *talem ut ea op.* Here *oporteat* might have stood; see n. on 3, l. 15.

§ 71.

22 **praesidiorum**: explanatory genitive, the *praesidia* and the *copiae* being the same.

24 **cogere ut**: this constr. with *cogere* occurs in all periods of Latin, as well as the infinitive constr.

25 **animum advertere**: this expression is generally interchangeable with *animadvertere;* but the preposition *ad* with the acc. of a thing only follows *animum advertere*, not *animadvertere*. When the sense is "to punish a person," the preposition *in* with acc. of the person always follows, not the acc. by itself.

more maiorum...suo iure: "by traditional practice...by the rights vested in him." Cic. intimates that both the *practice* and the *theory* of the constitution justified one, for whom the *senatus consultum ultimum* had been passed, in putting to death dangerous persons without trial.

27 **contionem**: Introd. p. 22.

§ 72. P. 53.

3 **de qua** etc.: here begins the longest sentence in Cic.; it only ends in 75. Quint. 5, 11, 12 quotes the passage as an ex. of gradual rise from less things to greater.

si iam etc.: "assuming for the sake of argument that I had refused to rebut the charge as I have rebutted it, still Milo might have escaped punishment by crying aloud etc." *Si iam* is frequently used thus by Cic. Lucr. and others. For the tenses *nollem, liceret* cf. n. on 23, l. 28.

4 **mentiri gloriose**: like Horace's *splendide mendax* (od. 3, 11, 35); cf. also Cic. Pro Lig. 16 *honesto ac misericordi mendacio.*

5 **Maelium**: 8, l. 7 n.

annona levanda: "by easing the supply of corn," which he bought and gave away. With *levare annonam* (Liv. 4, 13, 2) cf. *levare fenus*, also *gravitas annonae* (Tac.), *annona ingravescit* (Cic.), *laxare annonam* (Liv.).

6 **amplecti**: "to curry favour with"; as Phil. 7, 21 *an equites amplectetur?*

9 **orbem terrarum**: Velleius was the first prose writer who used *orbis* alone to mean "the world." As a rule *orbis terrae* means the whole earth, and *orbis terrarum* the Roman empire. Cic. sometimes applies *orbis terrae* to the Roman empire, but does not employ *orbis terrarum* to denote the whole world.

10 **cum...liberasset**: this would more correctly be *cum se diceret liberasse*, as the assertion is by hypothesis a pretence.

11 **pulvinaribus**: so De Har. Resp. 8 *pulvinaribus Bonae Deae.*

§ 73.

14 **germana**: this adj. is attached to *soror* and *frater* to distinguish the blood relationship from relationship by adoption; also *frater* was sometimes applied to a father's brother's son. So De Fin. 5, 1 *frater cognatione patruelis, amore germanus.*

15 **quaestionibus**: inquiry of slaves by torture; so in 59, l. 27.

17 **vitae civium**: so Pro Sull. 33 *ego vitam omnium civium redemi;* a common boast with Cic.

18 **servorum**: 36, l. 25.

19 **dedit ademit**: the omission of the conjunction gives force to the expression; cf. 47, l. 33; 87, l. 23; Pro Sull. 44 *quieveris tacueris.* Clodius induced the *comitia*, without the consent of the senate, to bestow the title of *rex* on two foreign chiefs (Pro Sest. 56), while he got a bill passed to deprive the king of Cyprus of his possessions (ib. 62, 63).

orbem...partitus est: an exaggerated statement, based on the fact that Clodius had passed a bill at the *comitia* granting certain provinces

to Gabinius and Piso, consuls of the year 58; see Pro Sest. 55. But ib. 66 Cic. speaks of other projects which Cl. was not able to carry through, and says: *qui locus orbi terrae iam non erat alicui destinatus?*

21 **civem**: see 18, ll. 11 sq.

22 **in facinore** etc.: "within the range of crime or passion."

23 **aedem** etc.: in Pro Cael. 78 it is said that Sextus Clodius fired the temple with his own hand, but in Parad. 31 the same statement is made of Publius. The temple was in the Campus Martius, and served as a record-office for the censors, who conducted most of their business in the Campus.

24 **recensionis**: according to Naegelsbach, Stilist. p. 161, ed. 6, the word, as applied to the censor, occurs only here and in Suet. Iul. 41. He shows how rare many of the verbal nouns are.

§ 74.

25 **eum cui** etc.: "one who recognised no statute nor any law binding citizens." *Lex* is properly law resting on statute, while *ius civile* comprises all law that affects citizens. Sometimes, however, *ius civile* is used in a narrower sense, of the older and stricter portions of the Roman law, as contrasted with the more recent and more equitable provisions. Cf. 77, p. 55, l. 2 *ius aequitas*.

26 **calumnia litium**: "legal trickery." *Calumnia* is restricted to unfairness in matters of law, and never means "calumny."

iniustis...sacramentis: these phrases apply to the most ancient form of legal procedure, the *legis actio sacramento*, in which the litigants made a deposit of money, to be forfeited in case of an adverse decision. The deposit was called *sacramentum*, because the forfeited sums were used for religious purposes. *Vindiciae* properly means *temporary possession* of the object in dispute during the litigation, but often, as here, the claim to such temporary possession. [See crit. n.]

27 **castris...Etruscos**: 55, l. 13.

29 **Varium**: unknown; as is Paconius, mentioned below.

32 **decempedis**: the *decempeda* is the "ten-foot rule" used by the surveyor (*decempedator* in Phil. 13, 37); cf. Hor. od. 2, 15, 14 *nulla decempedis metata privatis...porticus*.

hortos: always applied to suburban estates with small houses; *villa* is a larger house out in the country.

33 **Ianiculo** etc.: i.e. Clodius aimed at acquiring all that lay between the N. bank of the Tiber and the Alps.

P. 54.

1 **splendido**: from Augustus onward, this word and *illustris* are often applied to the *equites dignitate senatoria* (Tac. An. 16, 17), i.e. those who had money enough for a seat in the senate. But the money qualification for a seat in the senate had not been introduced in Cicero's time.

2 **Prilio**: now Lago di Castiglione in Tuscany; W. of *lacus Trasumennus*, N. of Clusium, and close to the *via Aurelia* (cf. 26, l. 29 n.).

4 **harenam**: see crit. n.

§ 75.

5 **qui**: the constr. is not completed; at l. 9 *oratio obliqua* is suddenly introduced (cf. 64, p. 50, l. 3). Cic. forgot that all this string of clauses began as a direct speech placed in Milo's mouth (72, l. 5). *Mihi* in l. 12 is not Milo but Cic.

9 **sed**: n. on 59, p. 48, l. 6.

10 **poposcerat**: the subj. would have been more usual.

11 **qua**: *cuius rei;* cf. 99, l. 33 *quae oblivio.*

conflagrandum; metaphors from words connected with fire are numerous in Latin; cf. De Orat. 3, 11 *in eadem invidiae flamma*, and n. on 12, l. 21.

15 **vestibulo**: here the open space in front of the house.

16 **aditu et l.**: so Pro Caec. 35 *si te...non modo limine tectoque aedium tuarum, sed primo aditu vestibuloque prohibuerint.*

§ 76.

18 **propinquos**: here substituted for *vicinos*, for the sake of the similarity of the sound to that of *longinquos*. Elsewhere *propinqui* almost always means "relations."

21 **aut depellere aut ferre**: similarly Liv. praef. 9 *nec vitia nostra nec remedia pati possumus;* Mart. 12, 47, 2 *nec tecum possum vivere nec sine te.*

22 **imperium**: which the praetorship would have given him.

23 **tetrarchas**: lit. "rulers over a fourth part of a country"; a title especially connected with ancient Thessaly and Galatia, but often applied more widely to petty chieftains.

24 **faceretis**: n. on 38, l. 19.

25 **pecunias dico?** 64, l. 30 n.

28 **tenentur**: "are certainties."

§ 77.

31 **tenens**: Phil. 2, 30 *Brutus cruentum pugionem tenens.*

P. 55.

2 **aequitas**: 74, l. 25 n. Cic. often places three pairs of words side by side, as here.

3 **pudor pudic.**: "honour and purity." The two words are often thus joined.

vero: affirmative; see 12, l. 15 n.

4 **qui non**: quite interchangeable with *quin* after *quis est* etc.

5 **unum**: 69, l. 11.

8 **non queo**: *nequeo* does not occur in Cic., though some other parts of the verb were used by him.

§ 78.

20 **hoc**: the benefits to the state, mentioned just before.

contingere: not always of good fortune; see my n. on De Amic. 8.

quid? here "nay, more."

24 **libentius quam verius**: this form is much less common than that with *magis quam* followed by *positive;* and is avoided altogether by some authors, as Caes., Sall.

25 **si praecipuum** etc.: "even if my hatred might well have surpassed that of others, yet, so great a foe was he of all, that the general hatred and mine were almost on a level."

27 **non potest dici satis**: like the common expression *satis mirari non queo.*

§ 79.

31 **ut ea cernimus**: see crit. n.

32 **fingite** etc.: "frame in your imaginations a picture of this proposal of mine." *Condicio* often denotes an offer made with a view to a bargain. *Si* and the words that follow are loosely explanatory of *condicio*: "I mean if etc."

igitur: n. on 59, p. 48, l. 6.

P. 56.

1 **ita, si** etc.: "on the understanding that I bring P. Clodius to life again." A clause with *si* is often thus explanatory of *ita*.

voltu: if this refers to the jury, the abl. is one of "respect," i.e. "to

judge from your looks." But it may refer to Clodius, and be causal abl. "at the thought of his looks."

2 **vivos**: nom. sing.

4 **Pompeius**: so De Fin. 2, 57 *ut hodie est noster Pompeius, cui recte facienti gratia est habenda; esse enim quam vellet inicus poterat impune.* The dramatic date of the De Fin. is the same as that of this speech.

5 **si** etc.: "if he had had the choice between enacting an enquiry into the death of Clodius and recalling him from the dead."

8 **amicitiam**: the word conveys a reproach against Pompey.

12 **interfector**: not "murderer," but "slayer by intention" as in 72, p. 53, l. 9.

13 **in confitendo**: cf. 81, l. 29 *in ea confessione.*

§ 80.

15 **homines...viris**: cf. n. on 69, l. 10.

16 **Athenis**: in honour of Harmodius and Aristogiton, who slew Hipparchus, and led to the liberation of Athens.

18 **cantus...carmina**: the former word refers to odes sung on public festivals, the latter to songs in private use, such as the famous table-song (σκολιὸν) of Callistratos, in honour of Harmodius and Aristogiton, of which a stanza has come down to us.

prope: like *paene=p. dixerim; ad*, lit. "with a view to." Translate "they are enshrined almost with the rites and the traditions of immortals." Cf. Q. Curt. 8, 5 (19), 16 *consecratae immortalitatis exempla*, of Hercules and Bacchus, who were deified men.

22 **rapi**: an exaggerated statement, like that in 31, l. 21.

si fecisset: i.e. if he had done the deed of set purpose.

§ 81.

27 **laudis**: "merit," as often; cf. Verg. Aen. 1, 461 *sunt hic etiam sua praemia laudi.*

29 **cum praes.**: n. on 42, l. 29.

si velletis...si probaretur: two protases, the apodosis being put between the two, as often.

P. 57.

3 **minus**: a mild negative; *cecidisset* "had proved to be." *Cadere* has often a nominative after it, as here; cf. De Leg. 2, 33 *augurum praedictis multa incredibiliter vera cecidisse.*

4 **cederet ex**: far more commonly abl. without *ex*, as above, 36, l. 19; 68, l. 29; 75, l. 9.

§ 82.

7 **omnes**: = *Romani*.

9 **nostram**: "as our due."

13 **arbitrarer**: 38, l. 19 n.

15 **nihilo segnius**: a phrase common (like *non segnius*) in later writers, but found here only in Cic.

§ 83.

24 **putant**: zeugma; the word is appropriate only to the last subject. There may be however strong personification of *fortuna* and *felicitas*, as of *religiones* in 85, l. 16. "Think it due to themselves that you should show gratitude for my client's service."

26 **vim**: sc. *divinam*.

neque etc.: *neque...magnitudo*, and *neque...movent* and *neque...sapientia* are parallel clauses; *nec* before *caeli* and *nec* before *vicissitudines* mark distinctions within the second clause.

28 **rerum**: "the world," i.e. the phenomena of nature.

§ 84. P. 58.

2 **est...vis**: "there is, indubitably there is such a power."

4 **inest...non inest**: a common form of argument from comparison or contrast, where a thing to be proved is placed side by side with a thing already admitted. The two clauses comprising the two things are always (as here) put together without connecting conjunction; sometimes both clauses are thrown into the form of questions, sometimes the second clause only. See my nn. on Pro Arch. 17 and Pro Sulla 32. This proof of a divine power is developed at length in De Nat. D. II.

5 **tanto tam**: cf. 12, l. 17 n. and 61, l. 19.

motu: here of a moving mass; cf. Lucr. 5, 200 *caeli impetus ingens*, and περιφορά.

6 **putant**: change to plural from *qui duxit* in 83, l. 25; cf. n. on 39, p. 41, l. 5.

8 **qualis aut ubi**: n. on 60, l. 10.

11 **mentem iniecit**: cf. the proverb: *quem deus vult perdere, prius dementat*. The *ut* which follows expresses consequence, not purpose; "inspired him with such feelings that he ventured...and was overcome."

§ 85.

15 **mediocri**: with adverbial force; "not even to a slight degree."

deorum: *sed* omitted, as above, l. 4; cf. n. on 36, l. 25.

16 **religiones**: 83, l. 24 n.

17 **in illo**: not with *ius*, as though the sense were "rights over him," which would rather be *in illum*, but with *retinuisse* "in his case."

20 **sociae** etc.: the Alban mount was the religious centre of the Latin league.

24 **edito**: the highest point is over 3100 ft. The remains of the old temple were almost destroyed in the last century by Cardinal York, the last of the English Stuarts, in order to build a convent.

27 **oculos aperuisti**: the opposite phrase is *conivere* (32, l. 12).

§ 86.

33 **primum volnus**: the only allusion in the speech to the two stages of the affair, for which see Introd. § 7.

P. 59.

1 **ut non...reservatus**: Cic. used very similar words to Clodius' face (Att. 1, 16, 9) and of Verres in Verr. 2, 1, 71.

4 **imaginibus** etc.: n. on 33, p. 38, l. 5.

5 **ludis**: sc. *funebribus*=*gladiatoriis*. The contests of gladiators were originally introduced from Etruria, and were always celebrated at a funeral or (nominally at least) in honour of some deceased member of the exhibitor's family. The blood shed was supposed, in early times, to appease the spirit of the dead. These games were not, strictly speaking, *publici ludi*.

7 **celebritate**: "publicity"; the word means, literally, the crowding of many people together.

9 **formas**: =*imagines*.

parricidae: often used in Latin (like *parricidium*) in connexion not merely with *parricide*, but also with any particularly foul form of murder.

10 **mortem**: =*cadaver*, as in Prop. 2, 13, 22 (3, 5, 6 ed. Teubn.) *nec sit in Attalico mors mea nixa rogo*. The use is rare altogether, and probably occurs only here in Cic.

§ 87.

14 **polluerat**: Introd. § 2.

15 **decreta**: 73, l. 13; n. on 13, p. 30, l. 5.

pecunia: a brilliant letter of Cic. to Atticus (1, 16) shows the corruption of the jury which tried Clodius for the profanation.

18 **gesta**: the measures taken against Catiline. *Resciderat:* by driving Cic. from Rome.

bona: the property of Cic. was confiscated; his house at Rome levelled, and some of his country villas pillaged.

20 **Pompeio**: 37, p. 40, l. 4; Ascon. 47.

21 **caedis** etc.: there is great exaggeration; magistrates were wounded (like Sestius) in the street fighting, but none killed; and only one *civis* is alleged to have been slaughtered by Clod. (18, p. 32, l. 2). Even he fell in a general combat (Ascon. 47). *Effecerat,* not *fecerat,* because the alleged deeds were not done by Clodius' own hand.

domum etc.: after the return of Cic. (Att. 4, 3, 2).

22 **sedibus** etc.: 74.

23 **instabat urgebat**: 73, l. 19 n.

capere...non poterant: "could not find room for"; "were too narrow for."

civitas: here of the portion of Italy which had received the franchise.

24 **incidebantur**: laws, when passed, were inscribed on bronze (*aes*) and set up in the Capitol. Cic. represents Clod. as so sure of passing his proposals, that he had them inscribed ready.

25 **addicerent**: 56, l. 26 n.; *servis:* n. on 89, l. 11 *lege nova.*

26 **adamasset**: *adamare* is "to love on and on," and so stronger than *amare;* see my n. on Academ. 2, 9.

§ 88.

28 **illum** etc.: 21, p. 33, l. 6.

30 **animos**: Cic. thus often reproaches the *boni* with cowardice.

P. 60.

2 **furioso**: cf. 84, l. 11. The adj. expresses the result of the gods' action.

4 **suo iure**: 71, l. 26.

senatus: the senate had no *direct* control over the magistrates. *Circumscribere* seems to have been a technical phrase for the interference of the senate with magistrates; see Mommsen, Staatsrecht III. 2, p. 1226 ed. 1.

6 **eodem hoc**: see cr. n.

§ 89.

8 **suos**: like *suam* in 88, l. 30 "devoted to him."

9 **virtutem**: 2, l. 14 n.

11 **possideret**: 38, l. 19 n.

lege nova etc.: there must be some exaggeration here; but in Att. 4, 3, 2 (written in 57) Cic. charges Clod. with holding out hopes of freedom to the slaves. Cf. Ascon. 53.

12 **Clodianis**: *leges Clodiae* would be laws actually passed by Clod.

15 **rem p. nullam**: "no free government"; so In Cat. 3, 25 *rem p. esse nullam*, and often.

§ 90.

16 **an...consul**: "would he, as praetor, aye and as consul."

21 **templum** etc.: "the shrine of purity and honour, of the national purposes and policy." Strictly, *templum* is merely a space made sacred by the augurs, whether a building be erected on it or not. The word is often applied to the *rostra*. The collocation of *mentis* with *consili* shows that *cons. publ.* is not here "the senate," though that meaning frequently attaches to the phrase, but is to be understood as in Pro Sest. 43 *sanguis nullo publico consilio profusus*, and very often elsewhere.

22 **aram**: "sanctuary"; so De Off. 2, 26 *regum populorum nationum portus erat et refugium senatus*; in Verr. 5, 126 *hic portus, haec arx, haec ara sociorum* (of the *quaestio repetundarum*).

29 **everterat**: "had turned upside down"; by his policy.

§ 91.

30 **ab**: "against him," as in 6, l. 17.

forum: a reference to the proposed legislation of Clodius.

33 **insepulti**: so *sine exsequiis, sine funere* in 86.

P. 61.

1 **falcibus**: the *falces murales* or pickaxes for pulling masonry to pieces; often mentioned by Caes., as in Bell. Gall. 7, 86, 5. The steps of the temple of Castor were sometimes pulled apart to form a rampart (Pro Sest. 34).

Castoris: the ellipse of *templum* often occurs with *ad, ante, ab*.

3 **cum audiretur** etc.: to show that no disorderliness gave excuse for the attack.

7 **singulari**: with *fortuna* not *fide*.

§ 92.

8 **causa**: 23, l. 26 n.

11 **non implorat**: according to Plut. Cic. 35, Milo would not even put on mourning apparel, as was customary.

15 **hoc**: "on this account"; but in l. 22 *hoc* is accus.

haud scio an: in Cic. the words imply belief in the statement which they introduce; but in later writers they convey doubt about it.

16 **et in**: the *et* has the force of *id est.*

§ 93.

23 **interimunt**: "are killing me," as in Plaut. Merc. 3, 4, 22 *disperii, modo interemit illaec med oratio.*

27 **patria**: in De Leg. 2, 5 Cic. contrasts the *patria iuris* (Rome), with the *patria loci,* in his own case Arpinum, in that of Milo Lanuvium; yet in 101, l. 23 the words *locus hic qui procreavit* are applied to Rome.

P. 62.

1 **mala**: Rome would become *mala* by ejecting Milo.

bene moratam: a reference to Massilia, famed for the orderliness of its public and private life: Strabo 179 *διοικοῦνται πάντων εὐνομώτατα.*

§ 94.

7 **armis**: causal abl.; but perhaps *in* has fallen out before *Clodianis.*

abiecerant: "had renounced."

8 **putarem**: "was I likely to think?"; cf. 34, l. 24 n.

12 **tui**: Cic. regarded himself as the leader of the *equites;* cf. Phil. 6, 13.

Italiae: 39, p. 41, l. 3.

§ 95.

17 **quo videtis**: sc. *eum esse.* The accus. *quem* would have been more in accordance with usage, but for the ellipse cf. In Cat. 1, 16 *ut odio permotus esse videar quo debeo;* Caes. Bell. Gall. 5, 2, 2 *sexcentas eius generis cuius supra demonstravimus naves.*

19 **plebem...imminebat**: these words are taken out of their proper place (after *ut* in l. 21) in order to give them prominence. For the emphatic *eam* cf. Liv. 1, 19, 1 *urbem novam, conditam vi et armis, iure eam legibusque ac moribus de integro condere parat.*

21 **fecisse ut flecteret**: this periphrasis is specially common in Cic.

22 **patrimoniis**: see Ascon. 53.

23 **muneribus**: sc. *gladiatoriis*.

26 **ordinum**: Introd. § 13. Cic. loosely speaks as though the jury were entirely composed of non-senators.

27 **quemcumque** etc.: Verg. Aen. 4, 653 *quem dederat cursum fortuna, peregi*.

28 **ablaturum**: this verb is often thus applied to things which cannot be carried off in the literal sense; so in Fin. 2, 106 Cic. quotes Sardanapallus as boasting (on his tombstone) *se omnis secum abstulisse...uoluptates;* cf. Petron. Cen. 43 *quot putas illum annos secum tulisse?* (of a dead man).

§ 96.

29 **minime**: not a thorough negative, but 'very little,' i.e. in comparison with the fact that the *cives* desired his election. The final announcement of the votes by the *praeco* was followed by the formal declaration of the election by the presiding magistrate (*renuntiatio*).

30 **cunctis**: this must have been rare, but there are other instances; see De Off. 2, 59; In Pis. 2; In Vatin. 11: Ad Fam. 15, 12, 1.

unum: as we say "*the* one thing," i.e. above others, not meaning entirely to exclude other things. In 3, l. 12 more emphatic.

31 **contra se sint**: *hoc est pro me* and *hoc est contra me* and similar phrases are not uncommon; cf. my n. on Academ. 2, 58. A rarer use is *hoc a me est* ("on my side") in De Orat. 1, 55.

P. 63.

4 **a civibus**: cf. *a me* in 100, l. 5.

5 **beneficio...vicerint**: "have surpassed in kindness."

§ 97.

6 **esset**: the preceding clauses depend on *addit* (96, l. 32) treated as a genuine present; but it is now treated as a *historic* tense.

8 **brevitatem...consolaretur**: cf. *gratulari aliquam rem* "to make something the subject of congratulation."

9 **absentes** etc.: so De Amic. 23 (of friendship) *absentes adsunt et... mortui vivont;* cf. my nn. there; and for the *oxymoron*, n. on 2, l. 12 above.

10 **gradibus**: so Pro Dom. 75 *decreta quibus tamquam gradibus mihi videor in caelum adscendisse*.

§ 98.

14 **faces**: cf. 75, l. 11 n.

15 **omni...celebramur**: "in every gathering of men I am made a hero

by their tribute of gratitude and their proffer of congratulations and by the words that are on every lip."

17 **festos...dies**: "the festival which has been celebrated and made annual." The festival was in Milo's honour and to be repeated every year on the anniversary of the death of Clodius.

18 **opinor**: inserted merely to give the reckoning the appearance of having been made *impromptu*.

22 **habitabit**; the metaphorical use is not uncommon; cf. Pro Balb. 13 *ut eius gloriae domicilium communis imperi finibus terminetur*.

§ 99.

24 **cum...es**: 39, p. 41, l. 2 n.

25 **satis...possum**: 78, l. 27 n.

27 **eriperis...est**: pres. for fut., which appears in *accepero*.

illa querella...possim: "a grievance entitling me to rage against those."

tamen: "in spite of all."

30 **aliquando**: "at some time or other"; contrasted with *semper*.

31 **nullum** etc.: "never will you sear me with a grief great enough (how indeed can any be great enough?), certainly, even the one I speak of is not great enough to make me forget the high honour in which you have always held me." *Hunc ipsum* sc. *inuretis*: but it is hardly possible to render literally, according to the syntax. Before *ut*, *tantum* is to be supplied again.

33 **quae**: = *cuius rei*; 75, l. 11 n.

P. 64.

1 **me**: abl. not accus.

3 **si quid accid.**: euphemism for death; see n. on 58, l. 25.

hoc tantum mali: so Verr. 2, 1, 67; Pro Imp. Cn. Pomp. 49 *hoc tantum boni*.

§ 100.

5 **pietatis**: Cic. uses the same word of his feeling for another of his defenders, Sestius (Pro Sest. 3).

6 **potentium**: chiefly Pompey.

12 **pro**: "worthy of"; "proportioned to."

14 **recuso**: not "refuse," but "object" or "protest," as always in the best Latin; see Pro Caecin. 81, 82.

15 **ut...videatis**: it is usual to explain this passage as a sort of zeugma, *obsecro* being properly applicable to the first alternative only (*aut...augratis*), while the second should have been expressed by a direct statement. In that case it is hard to see why *occasura esse* should have been written, and not *occidere.* The second alternative (*ut...videatis*) is perhaps put euphemistically; Cic. did not like to say—"or by ruining my client to destroy your *beneficia* for ever," so he says "or to understand that if you ruin my client your *beneficia* will perish."

§ 101.

18 **exsilium...locus**: "he thinks it banishment to live where his virtues have no scope."

20 **hic** etc.: *hic* is subject to *est*, *qua natus* being for *q. n. est.*

quid vos: "what of yourselves?" So *quid nos?* in Phil. 8, 9.

25 **civis invicti**: "indomitable patriot."

27 **praesidentibus**: *praesidere* has sometimes the same sense as *praesidio esse.*

§ 102.

33 **abes**: Quintus Cic. was with Caesar in Gaul.

P. 65.

2 **at**: so with question in 45, p. 43, l. 1, and often.

4 **morte**: when *acquiescere* means to feel satisfaction at something, the abl. with *in* is more usual.

5 **quo deprecante**: Cic. proceeds as though in l. 1 he had written *Milonemne non potuisse servari.*

§ 103.

7 **exstinxi**: as though not *indicia* had preceded, but *consilia,* the designs to which the *indicia* referred. For *cum...exstinxi* see n. on 39, p. 41, l. 2.

12 **discessus**: Cic. makes a point of speaking about his enforced flight from Rome, as a voluntary retirement (cf. *cessi* in 36, l. 19); *discessus* is often applied to it.

14 **fecissent**: Cic. meant to go on with *ut viveret,* but after the parenthesis a new construction is introduced.

15 **dixerim**: Roby § 1540.

18 **viderem**: after comparative adverbs (*potius amplius serius* etc.) followed by *quam,* Cic. regularly wrote subj. without *ut.*

§ 104.

a vobis: put here for the more usual dative, in order to emphasise the fact that the jurors must be the agents in preserving Milo. In all Latin, the exx. of abl. with *ab* after gerundive as compared with dative are few. Some are due to the necessity of avoiding ambiguity, as e.g. where the gerundive is from a verb which ordinarily takes the dative; so in Pro Imp. Cn. P. 6 *quibus est a vobis...consulendum*.

20 **poenas...luerit**: lit. "let him have paid the penalty," i.e. "I am content that he has paid the penalty."

nos: for the change from *inquit* cf. n. on 12, l. 28.

21 **hicine**: this and *sicine* were used, not *hicne*, *sicne*, nor *hiccine*, *siccine*.

22 **si forte**: "possibly," like the parenthetic εἰ τύχοι: see Munro on Lucret. 5, 720. The clause is abbreviated for *si forte ita acciderit*, or something of the kind. It is assumed that a citizen who dies for Rome dies in the enemy's country.

huius: dependent on *animi*, not agreeing.

§ 105.

28 **lacrimis**: in the perorations to several of Cicero's speeches he declares that his grief compels him to stop. *Prae* with the sense "because of" only occurs with a negative in the best prose.

30 **quod...audeatis**: "to have the courage of your opinions."

31 **is probabit**: cf. Vell. Pat. 2, 47, 4 *Milonem reum non magis invidia facti quam Pompeii damnavit voluntas;* an account which is probably nearer the truth.

APPENDIX A.

THE COMMENTS OF ASCONIUS[1].

ARGUMENTUM.

31 Hanc orationem dixit Cn. Pompeio III consule a. d. VI Id. April. Quod iudicium cum ageretur, exercitum in foro et in omnibus templis, quae circum forum sunt, collocatum a Cn. Pompeio fuisse non tantum ex oratione et annalibus, sed etiam ex libro apparet, qui Ciceronis nomine inscribitur de optimo genere oratorum. Argumentum hoc est.

T. Annius Milo et P. Plautius Hypsaeus et Q. Metellus Scipio consulatum petierunt non solum largitione palam profusa, sed etiam factionibus armatorum succincti. Miloni et Clodio summae erant inimicitiae, quod et Milo Ciceronis erat amicissimus in reducendoque eo enixe operam tribunus pl. dederat, et P. Clodius restituto quoque Ciceroni erat infestissimus ideoque summe studebat Hypsaeo et Scipioni contra Milonem. Ac saepe inter se Milo et Clodius cum suis factio-
32 nibus Romae depugnaverant et erant uterque audacia pares, sed Milo pro melioribus partibus stabat. Praeterea in eundem annum consulatum Milo, Clodius praeturam petebat, quam debilem futuram consule Milone intellegebat. Inde cum diu tracta essent comitia consularia perficique ob eas ipsas perditas candidatorum contentiones non possent, et ob id mense Ianuario nulli dum neque consules neque praetores essent, trahereturque dies eodem quo antea modo—cum Milo quam primum comitia confici vellet confideretque cum bonorum studiis, quod obsistebat Clodio, tum etiam populo propter effusas largitiones impensasque ludorum scaenicorum ac gladiatorii muneris maximas, in quas tria patrimonia effudisse eum Cicero significat, competitores eius trahere vellent, ideoque Pompeius, gener Scipionis, et T. Munatius tribunus pl. referri ad senatum de patriciis convocandis, qui interregem proderent, non essent passi, cum interregem prodere stata res esset—: a. d. XIII Kal. Febr.—acta etenim magis sequenda et ipsam orationem, quae actis congruit, puto quam Fenestellam, qui a. d. XIIII Kal. Febr. tradit—Milo Lanuvium, ex quo erat municipio et ubi tum dictator, profectus est ad flaminem prodendum postera die. Occurrit ei circa horam nonam Clodius paulo ultra Bovillas, rediens ab Aricia, prope eum locum, in quo Bonae Deae sacellum est; erat autem allocutus
33 decuriones Aricinorum. Vehebatur Clodius equo; servi XXX fere expediti, ut illo tempore mos erat iter facientibus, gladiis cincti sequebantur.

[1] The text is almost exactly that of Kiessling and Schöll.

Erant cum Clodio praeterea tres comites eius, ex quibus eques Romanus
unus, C. Causinius Schola, duo de plebe noti homines, P. Pomponius
et C. Clodius. Milo raeda vehebatur cum uxore Fausta, filia L. Sullae
dictatoris, et M. Saufeio, familiare suo. Sequebatur eos magnum
servorum agmen, inter quos gladiatores quoque erant, ex quibus duo
noti, Eudamus et Birria. Ii in ultimo agmine tardius euntes cum servis
P. Clodi rixam commiserunt. Ad quem tumultum cum respexisset
Clodius minitabundus, umerum eius Birria rumpia traiecit. Inde cum
orta esset pugna, plures Miloniani accurrerunt. Clodius vulneratus in
tabernam proximam in Bovillano delatus est. Milo ut cognovit vulne-
ratum Clodium, cum sibi periculosius illud etiam vivo eo futurum
intellegeret, occiso autem magnum solacium esset habiturus etiamsi
subeunda esset poena, exturbari taberna iussit. Fuit antesignanus
servorum eius M. Saufeius. Atque ita Clodius latens extractus est
multisque vulneribus confectus. Cadaver eius in via relictum, quia
servi Clodi aut occisi erant aut graviter saucii, aut latebant, Sex. Tedius
senator, qui forte ex rure in urbem revertebatur, sustulit et lectica sua
Romam ferri iussit; ipse rursus eodem, unde erat egressus, se recepit.
Perlatum est corpus Clodi ante primam noctis horam, infimaeque plebis
et servorum maxima multitudo magno luctu corpus in atrio domus
positum circumstetit. Augebat autem facti invidiam uxor Clodi Fulvia,
quae cum effusa lamentatione vulnera eius ostendebat. Maior postera
die luce prima multitudo eiusdem generis confluxit compluresque noti
homines elisi sunt, inter quos C. Vibienus senator. Erat domus Clodi,
ante paucos menses empta de M. Scauro, in Palatio. Eodem T. Mu- 34
natius Plancus, frater L. Planci oratoris, et Q. Pompeius Rufus, Sullae
dictatoris ex filia nepos, tribuni pl. accurrerunt, iisque hortantibus
vulgus imperitum corpus nudum ac lutatum, sicut in lecto erat positum,
ut vulnera videri possent, in forum detulit et in rostris posuit. Ibi pro
contione Plancus et Pompeius, qui competitoribus Milonis studebant,
invidiam Miloni fecerunt. Tum populus duce Sex. Clodio scriba corpus
P. Clodi in curiam intulit cremavitque subselliis et tribunalibus et mensis
et codicibus librariorum, quo igne et ipsa quoque curia flagravit, et item
Porcia basilica, quae erat ei iuncta, ambusta est. Domus quoque
M. Lepidi interregis—is enim magistratus curulis erat creatus—et ab-
sentis Milonis eadem illa Clodiana multitudo oppugnavit, sed inde
sagittis repulsa est. Tum fasces ex luco Libitinae raptos attulit ad
domum Scipionis et Hypsaei, deinde ad hortos Cn. Pompei, clamitans
eum modo consulem, modo dictatorem.

Incendium curiae maiorem aliquanto indignationem civitatis moverat quam interfectio Clodi. Itaque Milo, quem opinio fuerat ivisse in voluntarium exsilium, invidia adversariorum recreatus nocte ea redierat Romam, qua incensa erat curia. Petebatque nihil deterritus consulatum; aperte quoque tributim singula milia assium dederat. Contionem ei post aliquos dies dedit M. Caelius tribunus pl. atque ipse etiam causam eius egit ad populum. Dicebant uterque Miloni a Clodio factas esse insidias.

Fiebant interea alii ex aliis interreges, quia comitia consularia 35
propter eosdem candidatorum tumultus et easdem manus armatas haberi
non poterant. Itaque primo factum erat senatus consultum, ut interrex

et tribuni pl. et Cn. Pompeius, qui pro consule ad urbem erat, viderent, ne quid detrimenti res publica caperet, dilectus autem Pompeius tota Italia haberet. Qui cum summa celeritate praesidium comparasset, postulaverunt apud eum familiam Milonis, item Faustae uxoris eius exhibendam duo adulescentuli, qui Appii Claudii ambo appellabantur, qui erant C. Claudi filii, qui frater fuerat Clodi, et ob id patrui sui mortem velut auctore patre persequebantur. Easdem Faustae et Milonis familias postulaverunt duo Valerii, Nepos et Leo, et L. Herennius Balbus. P. Clodi quoque familiam et comitum eius postulavit eodem tempore Caelius; familiam Hypsaei et Q. Pompei postulavit...Adfuerunt Miloni Q. Hortensius, M. Cicero, M. Marcellus, M. Calidius, M. Cato, Faustus Sulla. Verba pauca Q. Hortensius fecit dixitque liberos esse eos, qui pro servis postularentur; nam post recentem caedem manu miserat eos Milo sub hoc titulo, quod caput suum ulti
36 essent. Haec agebantur mense intercalari. Post diem tricesimum fere quam erat Clodius occisus Q. Metellus Scipio in senatu contra M. Caelium conquestus est de hac caede P. Clodi; falsum esse dixit, quod Milo sic se defenderet, ut insidias sibi factas esse diceret. Clodium Aricinos decuriones alloquendi gratia abisse, profectum cum sex ac viginti servis: Milonem subito post horam quartam senatu misso cum servis amplius trecentis armatis obviam ei contendisse et supra Bovillas inopinantem in itinere aggressum; ibi P. Clodium tribus vulneribus acceptis Bovillas perlatum; tabernam, in quam perfugerat, expugnatam a Milone; semianimem Clodium extractum ex taberna et in via Appia occisum esse anulumque ei morienti detractum; deinde Milonem, cum sciret in Albano parvulum filium Clodi, venisse ad villam, et cum puer ante subtractus esset, ex servo Halicore quaestionem ita habuisse, ut eum articulatim consecarent; vilicum et duos praeterea servos iugulasse; ex servis Clodi, qui dominum defenderint, undecim esse interfectos; Milonis duos solos saucios factos esse; ob quae Milonem postero die duodecim servos, qui maxime operam navassent, manu misisse, populoque tributim singula milia aeris ad defendendos de se rumores dedisse.
37 Milo misisse ad Cn. Pompeium dicebatur, qui Hypsaeo summe studebat, quod fuerat eius quaestor, desistere se petitione consulatus, si ita ei videretur; Pompeium respondisse, nemini se neque petendi neque desistendi auctorem esse, neque populi Romani potestatem aut consilio aut sententia interpellaturum. Deinde per C. Lucilium, qui propter M. Ciceronis familiaritatem amicus erat Miloni, egisse quoque dicebatur, ne se de hac re consulendo invidia oneraret.

Inter haec cum crebresceret rumor Cn. Pompeium creari dictatorem oportere neque aliter mala civitatis sedari posse, visum est optimatibus tutius esse eum consulem sine collega creari, et cum tractata ea res esset in senatu, facto in M. Bibuli sententiam senatus consulto Pompeius ab interrege Servio Sulpicio v. Kal. Mart. mense intercalario consul creatus est statimque consulatum iniit. Deinde post diem tertium de legibus novis ferendis rettulit: duas ex senatus consulto promulgavit, alteram de vi, qua nominatim caedem in Appia via factam et incendium curiae et domum M. Lepidi interregis oppugnatam comprehendit, alteram de ambitu, poena graviore et forma iudiciorum breviore; utraque enim lex prius testes dari, deinde uno die atque eodem et ab

accusatore et a reo perorari iubebat, ita ut duae horae accusatori, tres reo darentur. His legibus obsistere M. Caelius tribunus pl. studiosissimus Milonis conatus est, quod et privilegium diceret in Milonem ferri et iudicia praecipitari; sed cum pertinacius legem Caelius vituperaret, eo processit irae Pompeius, ut diceret, si coactus esset, se armis rem publicam defensurum. Timebat autem Pompeius Milonem seu timere se simulabat: plerumque non domi suae, sed in hortis manebat, idque ipsum in superioribus, circa quos etiam magna manus militum excubabat. Senatum quoque semel repente dimiserat Pompeius, quod diceret timere se adventum Milonis. Dein proximo senatu P. Corni- 38
ficius ferrum Milonem intra tunicam habere ad femur alligatum dixerat; postulaverat ut femur nudaret, et ille sine mora tunicam levarat. Tum M. Cicero exclamaverat, omnia illi similia crimina esse quae in Milonem dicerentur alia.

Deinde T. Munatius Plancus tribunus pl. produxerat in contionem M. Aemilium Philemonem, notum hominem, libertum M. Lepidi. Is se dicebat pariterque secum quattuor liberos homines iter facientes supervenisse, cum Clodius occideretur, et ob id cum proclamassent, abreptos et per duos menses in villa Milonis praeclusos fuisse; eaque res, seu vera seu falsa, magnam invidiam Miloni contraxerat. Itemque Munatius et Pompeius tribuni pl. in rostra produxerant triumvirum capitalem eumque interrogaverant, an Galatam, Milonis servum, caedes facientem deprehendisset. Ille dormientem in taberna pro fugitivo prehensum et ad se perductum esse responderat; denuntiaverant tamen tribuni triumviro, ne servum remitteret. Sed postera die Caelius tribunus pl. et Q. Manilius Cumanus collega eius ereptum e domo triumviri servum Miloni reddiderant. Haec, etsi nullam de his criminibus mentionem fecit Cicero, tamen, quia ita compereram, putavi exponenda.

Inter primos et Q. Pompeius et C. Sallustius et T. Munatius Plancus tribuni pl. inimicissimas contiones de Milone habebant, invidiosas etiam de Cicerone, quod Milonem tanto studio defenderet; 39
eratque maxima pars multitudinis infensa non solum Miloni, sed etiam propter invisum patrocinium Ciceroni. Postea Pompeius et Sallustius in suspicione fuerunt redisse in gratiam cum Milone ac Cicerone. Plancus autem infestissime perstitit atque in Ciceronem quoque multitudinem instigavit, Cn. Pompeio autem suspectum faciebat Milonem, ad perniciem eius comparari vim vociferatus; Pompeiusque ob ea saepius querebatur, sibi quoque fieri insidias, et id palam, ac maiore manu se armabat. Dicturum quoque diem Ciceroni Plancus ostendebat, posteaquam Q. Pompeius idem meditatus erat. Tanta tamen constantia ac fides fuit Ciceronis, ut non populi a se alienatione, non Cn. Pompei suspicionibus, non periculo futurum ut sibi dies ad populum diceretur, non armis, quae palam in Milonem sumpta erant, deterreri potuerit a defensione eius, cum posset omne periculum suum et offensionem inimicae sibi multitudinis declinare, redimere autem Cn. Pompei animum, si paulum ex studio defensionis remisisset.

Perlata deinde lege Pompeia, in qua id quoque scriptum erat, ut quaesitor suffragio populi ex iis, qui consules fuerant, crearetur, statim comitia habita creatusque est L. Domitius Ahenobarbus quaesitor.

Album quoque iudicum, qui de ea re iudicarent, Pompeius tale proposuit, ut numquam neque clariores viros neque sanctiores propositos
40 esse constaret. Post quod statim nova lege Milo postulatus a duobus Appiis Claudiis adulescentibus, isdem a quibus antea familia eius fuerat postulata, itemque de ambitu ab isdem Appiis et praeterea a..., de vi a Q. Patulcio et L. Cornificio, de sodaliciis a P. Fulvio Nerato. Postulatus autem erat et de sodaliciis et de ambitu ea spe, quod primum iudicium de vi futurum apparebat, quo eum damnatum iri confidebant nec postea responsurum.

Divinatio de ambitu accusatorum facta est quaesitore A. Torquato, atque ambo quaesitores, Torquatus et Domitius, pridie Non. April. reum adesse iusserunt. Quo die Milo ad Domiti tribunal venit, ad Torquati amicos misit; ibi postulante pro eo M. Marcello obtinuit, ne prius causam de ambitu diceret, quam de vi iudicium esset perfectum. Apud Domitium autem quaesitorem maior Appius postulavit a Milone servos exhiberi numero III et L, et cum ille negaret eos qui nominabantur in sua potestate esse, Domitius ex sententia iudicum pronuntiavit, ut ex servorum suorum numero accusator quot vellet ederet. Citati deinde testes secundum legem, quae, ut supra diximus, iubebat, ut prius quam causa ageretur, testes per triduum audirentur, dicta eorum iudices confirmarent, quarta die adesse omnes iuberentur, ac coram accusatore ac reo pilae, in quibus nomina iudicum inscripta essent, aequarentur; dein rursus sortitio iudicum fieret, unius et LXXX: qui numerus cum sorte obtigisset, ipsi protinus sessum irent; tum ad dicendum accusator duas horas, reus tres haberet, resque eodem die illo iudicaretur; prius autem quam sententiae ferrentur, quinos ex singulis ordinibus accusator, toti-
41 dem reus reiceret, ita ut numerus iudicum relinqueretur, qui sententias ferrent, quinquaginta et unus.

Primo die datus erat in Milonem testis Causinius Schola, qui se cum P. Clodio fuisse, cum is occisus esset, dixit, atrocitatemque rei factae quam maxime potuit auxit. Quem cum interrogare M. Marcellus coepisset, tanto tumultu Clodianae multitudinis circumstantis exterritus est, ut vim ultimam timens in tribunal a Domitio reciperetur. Quam ob causam Marcellus et ipse Milo a Domitio praesidium imploraverunt. Sedebat eo tempore Cn. Pompeius ad aerarium perturbatusque erat eodem illo clamore; itaque Domitio promisit se postero die cum praesidio descensurum, idque fecit. Qua re territi Clodiani silentio verba testium per biduum audiri passi sunt. Interrogaverunt eos M. Cicero et M. Marcellus et Milo ipse. Multi ex iis, qui Bovillis habitabant, testimonium dixerunt de iis, quae ibi facta erant: cauponem occisum, tabernam expugnatam, corpus Clodi in publicum extractum esse. Virgines quoque Albanae dixerunt mulierem ignotam venisse ad se, quae Milonis mandato votum solveret, quod Clodius occisus esset. Ultimae testimonium dixerunt Sempronia, Tuditani filia, socrus P. Clodi, et uxor Fulvia, et fletu suo magnopere eos qui adsistebant commoverunt. Dimisso circa horam decimam iudicio T. Munatius pro contione populum adhortatus est, ut postero die frequens adesset et elabi Milonem non pateretur iudiciumque et dolorem suum ostenderet euntibus ad tabellam ferendam. Postero die, qui fuit iudicii summus a. d. VI Idus Aprilis, clausae fuerunt tota urbe tabernae; praesidia in foro et circa omnes fori

aditus Pompeius disposuit; ipse pro aerario, ut pridie, consedit saeptus delecta manu militum. Sortitio deinde iudicum a primo die facta est; 42
post tantum silentium toto foro fuit, quantum esse in aliquo foro potest. Tum intra horam secundam accusatores coeperunt dicere, Appius maior et M. Antonius et P. Valerius Nepos; usi sunt ex lege horis duabus.

Respondit his unus M. Cicero; et cum quibusdam placuisset ita defendi crimen, interfici Clodium pro re publica fuisse (quam formam M. Brutus secutus est in ea oratione, quam pro Milone composuit et edidit, quasi egisset), Ciceroni id non placuit, quasi qui bono publico damnari, idem etiam occidi indemnatus posset. Itaque cum insidias Milonem Clodio fecisse posuissent accusatores, quia falsum id erat (nam forte illa rixa commissa fuerat), Cicero apprehendit et contra Clodium Miloni fecisse insidias disputavit, eoque tota oratio eius spectavit. Sed ita constitit, ut diximus, neutrius consilio pugnatum esse eo die, verum et forte occurrisse et ex rixa servorum ad caedem perventum. Notum tamen erat utrumque mortem alteri saepe minatum esse, et sicut suspectum Milonem maior quam Clodi familia faciebat, ita expeditior et paratior ad pugnam Clodianorum quam Milonis fuerat. Cicero cum inciperet dicere, exceptus acclamatione Clodianorum, qui se continere ne metu quidem circumstantium militum potuerunt; itaque non ea qua solitus erat constantia dixit. Manet autem illa quoque excepta eius oratio. Scripsit vero hanc quam legimus, ita perfecte, ut iure prima haberi possit.

ENARRATIO.

(§ 3.) Unum genus est adversum infestumque nobis et cetera.

Ita ut in causae expositione diximus, Munatius Plancus pridie pro 43
contione populum adhortatus erat, ne pateretur elabi Milonem.

(§ 12.) Declarant huius ambusti tribuni plebis illae intermortuae contiones, quibus quotidie meam potentiam invidiose criminabatur.

T. Munatius Plancus et Q. Pompeius Rufus tribuni pl., de quibus in argumento huius orationis diximus, cum contra Milonem Scipioni et Hypsaeo studerent, contionati sunt eo ipso tempore plebemque in Milonem accenderunt, quo propter Clodi corpus curia incensa est, nec prius destiterunt, quam flamma eius incendii fugati sunt e contione. Erant enim tunc rostra non eo loco quo nunc sunt, sed ad comitium, prope iuncta curiae. Ob hoc T. Munatium ambustum tribunum appellat; fuit autem paratus ad dicendum.

(§ 13.) Cur igitur incendium curiae, oppugnationem aedium M. Lepidi, caedem hanc ipsam contra rem publicam senatus factam esse decrevit?

Post biduum medium quam Clodius occisus erat, interrex primus

proditus est M. Aemilius Lepidus. Non fuit autem moris ab eo, qui primus interrex proditus erat, comitia haberi. Sed Scipionis et Hypsaei factiones, quia recens invidia Milonis erat, cum contra ius postularent, ut interrex ad comitia consulum creandorum descenderet, idque ipse non faceret, domum eius per omnes interregni dies (fuerunt autem ex more quinque) obsederunt. Deinde omni vi ianua expugnata et imagines maiorum deiecerunt et lectulum adversum uxoris eius Corneliae, cuius castitas pro exemplo habita est, fregerunt, itemque telas, quae ex vetere more in atrio texebantur, diruerunt. Post quae supervenit Milonis manus et ipsa postulans comitia; cuius adventus fuit saluti Lepido: in se enim ipsae conversae sunt factiones inimicae, atque ita oppugnatio domus interregis omissa est.

44 (§ 14.) Quod si per furiosum illum tribunum pl. senatui quod sentiebat perficere licuisset, novam quaestionem nullam haberemus. Decernebat enim, ut veteribus legibus, tantummodo extra ordinem, quaereretur. Divisa sententia est postulante nescio quo. Sic reliqua auctoritas senatus empta intercessione sublata est.

Quid sit dividere sententiam, ut enarrandum sit, vestra aetas, filii, facit.

Cum aliquis in dicenda sententia duas pluresve res complectitur, si cui non omnes eae probantur, postulat ut dividatur, id est de rebus singulis referatur. Forsitan nunc hoc quoque velitis scire, qui fuerit, qui id postulaverit. Quod non fere traditur: non enim ei, qui hoc postulat, oratione longa utendum ac ne consurgendum quidem utique est; multi enim sedentes hoc unum verbum pronuntiant Divide: quod cum auditum est, liberum est ei, qui facit relationem, dividere. Sed ego, ut curiosius aetati vestrae satisfaciam, Acta etiam totius illius temporis persecutus sum; in quibus cognovi pridie Kal. Mart. S. C. esse factum, P. Clodi caedem et incendium curiae et oppugnationem aedium M. Lepidi contra rem p. factam; ultra relatum in Actis illo die nihil; postero die, id est Kal. Mart., T. Munatium in contione exposuisse populo quae
45 pridie acta erant in senatu: in qua contione haec dixit ad verbum: Cum Hortensius dixisset, ut extra ordinem quaereretur apud quaesitorem; aestimare futurum, ut, cum pusillum edissent dulcedinis, largiter acerbitatis devorarent: adversus hominem ingeniosum non ingenio usi sumus; invenimus Fufium, qui diceret 'Divide'; reliquae parti sententiae ego et Sallustius intercessimus. Haec contio, ut puto, explicat, et quid senatus decernere voluerit, et quis divisionem postulaverit, et quis intercesserit et cur. Illud vos meminisse non dubito per Q. Fufium illo quoque tempore quo de incesto P. Clodi actum est factum, ne a senatu asperius decerneretur.

De L. Domitio dicit:

(§ 22.) Dederas enim, quam contemneres populares insanias, iam ab adulescentia documenta maxima.

46 Constantiam L. Domiti quam in praetura praestitit significat. Nam eo tempore, cum C. Manilius tribunus plebis subnixus libertinorum et servorum manu perditissimam legem ferret, ut libertinis in omnibus *tribubus suffragium esset*, idque per tumultum ageret et clivum Capito-

linum obsideret, discusserat perruperatque coetum Domitius ita, ut multi Manilianorum interficerentur. Quo facto et plebem infimam offenderat et senatus magnam gratiam inierat.

(§ 32.) Itaque illud Cassianum iudicium in his personis valeat.

L. Cassius fuit, sicut iam saepe diximus, summae vir severitatis. Is quotiens quaesitor iudicii alicuius esset, in quo quaerebatur de homine occiso, suadebat atque etiam praeibat iudicibus hoc, quod Cicero nunc admonet, ut quaereretur, cui bono fuisset perire eum de cuius morte quaeritur. Ob quam severitatem, quo tempore Sex. Peducaeus tribunus plebis criminatus est L. Metellum pontificem max. totumque collegium pontificum male iudicasse de incesto virginum Vestalium, quod unam modo Aemiliam damnaverat, absolverat autem duas Marciam et Liciniam, populus hunc Cassium creavit qui de eisdem virginibus quaereret: isque et utrasque eas et praeterea complures alias nimia etiam, ut existimatio est, asperitate usus damnavit.

(§ 33.) Et aspexit me illis quidem oculis, quibus tunc solebat, cum omnibus omnia minabatur. Movet me quippe lumen curiae!

Hic est Sex. Clodius, quem in argumento huius orationis diximus corpus Clodi in curiam attulisse et ibi cremasse eoque incenso curiam conflagrasse; ideo lumen curiae dicit.

(§ 37.) Quando illius postea sica illa, quam a Catilina acceperat, conquievit? Haec intentata nobis est, huic ego obici vos pro me non sum passus, haec insidiata Pompeio est.

Quod dicit intentata nobis est et obici vos pro me non sum
passus, manifestum est pertinere ad id tempus, quo post rogationem 47
a P. Clodio in eum promulgatam urbe cessit. Quare dicat insidiata Pompeio est, fortassis quaeratis. Pisone et Gabinio coss. pulso Cicerone in exilium, cum III Idus Sextiles Pompeius in senatum venit, dicitur servo P. Clodi sica excidisse, eaque ad Gabinium consulem delata dictum est servo imperatum a P. Clodio, ut Pompeius occideretur. Pompeius statim domum rediit et ex eo domi se tenuit. Obsessus est etiam a liberto Clodi Damione, ut ex Actis eius anni cognovi, in quibus XV Kal. Sept. L. Novius tribunus plebis, collega Clodi, cum Damio adversum L. Flavium praetorem appellaret tribunos et tribuni de appellatione cognoscerent, ita sententiam dixit: Etsi ab hoc apparitore P. Clodi vulneratus sum, et hominibus armatis praesidiis dispositis a re publica remotus Cn. Pompeius obsessusque est: cum appeller, non utar eius exemplo, quem vitupero, et iudicium tollam, et reliqua de intercessione.

Haec viam Appiam monumentum nominis sui nece Papiri cruentavit.

Pompeius post triumphum Mithridaticum Tigranis filium in catenis deposuerat apud Flavium senatorem: qui postea cum esset praetor eodem anno, quo tribunus plebis Clodius, petiit ab eo Clodius super cenam, ut Tigranem adduci iuberet, ut eum videret. Adductum collocavit in convivio, dein Flavio non reddidit Tigranem; domi suae habuit extra catenas nec repetenti Pompeio reddidit. Postea in navem

48 deposuit, et cum profugeret ille, tempestate delatus est Antium. Inde ut deduceretur ad se, Clodius Sex. Clodium, de quo supra diximus, misit. Qui cum reduceret, Flavius quoque re cognita ad deripiendum Tigranem profectus est. Ad quartum lapidem ab urbe pugna facta est, in qua multi ex utraque parte ceciderunt, plures tamen ex Flavi, inter quos et M. Papirius eques Romanus, publicanus, familiaris Pompeio. Flavius sine comite Romam vix perfugit.

Haec eadem longo intervallo conversa rursus est in me: nuper quidem, ut scitis, me ad Regiam paene confecit.

Quo die periculum hoc adierit, ut Clodius eum ad Regiam paene confecerit, nusquam inveni; non tamen adducor ut putem Ciceronem mentitum, praesertim cum adiciat ut scitis. Sed videtur mihi loqui de eo die, quo consulibus Domitio et Messalla, qui praecesserant eum annum, cum haec oratio dicta est, inter candidatorum Hypsaei et Milonis manus in via Sacra pugnatum est, multique ex Milonis ex improviso ceciderunt. De cuius diei periculo suo ut putem loqui eum, facit et locus pugnae (nam in Sacra via traditur commissa, in qua est Regia), et quod adsidue simul erant cum candidatis suffragatores, Milonis Cicero, Hypsaei Clodius.

(§ 38.) Potuitne L. Caecili, iustissimi fortissimique praetoris, obpugnata domo?

L. Caecilius Rufus, de quo dicitur, fuit praetor P. Lentulo Spinthere Q. Metello Nepote coss., quo anno Cicero restitutus est. Is cum faceret ludos Apollinares, ita infima coacta multitudo annonae caritate tumultuata est, ut omnes, qui in theatro spectandi causa consederant,
49 pellerentur. De oppugnata domo nusquam adhuc legi; Pompeius tamen cum defenderet Milonem apud populum, de vi accusante Clodio, obiecit, ut legimus apud Tironem libertum Ciceronis in libro IIII de vita eius, oppressum a Clodio L. Caecilium praetorem.

(§ 45.) At quo die? quo, ut ante dixi, fuit insanissima contio, ab ipsius mercennario tribuno plebis concitata.

Hoc significat eo die quo Clodius occisus est contionatum esse mercennarium eius tribunum plebis. Sunt autem contionati eo die, ut ex Actis apparet, C. Sallustius et Q. Pompeius, utrique et inimici Milonis et satis inquieti. Sed videtur mihi Q. Pompeium significare; nam eius seditiosior fuit contio.

(§ 46.) Dixit C. Causinius Schola Interamnanus, familiarissimus et idem comes Clodi, P. Clodium illo die in Albano mansurum fuisse.

Hic fuit Causinius, apud quem Clodius mansisse Interamnae videri volebat qua nocte deprehensus est in Caesaris domo, cum ibi in operto virgines pro populo Romano sacra facerent.

(§ 47.) Scitis, iudices, fuisse, qui in hac rogatione suadenda diceret Milonis manu caedem esse factam, consilio vero maioris alicuius. Me videlicet latronem et sicarium abiecti homines et perditi describebant.

50 Q. Pompeius Rufus et C. Sallustius tribuni fuerunt quos significat. Hi enim primi de ea lege ferenda populum hortati sunt et dixerunt a manu Milonis occisum esse Clodium, consilio vero maioris *alicuius*.

(§ 49.) Atqui ut illi nocturnus adventus vitandus fuit, sic Miloni, cum insidiator esset, si illum ad urbem noctu accessurum sciebat, subsidendum et cetera.

Via Appia est prope urbem monumentum Basili, qui locus latrociniis fuit perinfamis, quod ex aliis quoque multis intellegi potest.

(§ 55.) Comites Graeculi quocumque ibat, etiam cum in castra Etrusca properabat.

Saepe obiecit Clodio Cicero socium eum coniurationis Catilinae fuisse; quam rem nunc quoque reticens ostendit. Fuerat enim opinio, ut Catilina ex urbe profugerat in castra Manli centurionis, qui tum in Etruria ad Faesulas exercitum ei comparabat, Clodium subsequi eum voluisse et coepisse, tum dein mutato consilio in urbem redisse.

(§ 67.) Non iam hoc Clodianum crimen timemus, sed tuas, Cn. Pompei, te enim appello, et ea voce, ut me exaudire possis, tuas, inquam, suspiciones perhorrescimus.

Diximus in argumento orationis huius Cn. Pompeium simulasse timorem, seu plane timuisse Milonem, et ideo ne domi quidem suae, sed in hortis superioribus ante iudicium mansisse, ita ut villam quoque praesidio militum circumdaret. Q. Pompeius Rufus tribunus plebis, qui fuerat familiarissimus omnium P. Clodio et sectam eam sequi 51 se palam profitebatur, dixerat in contione paucis post diebus quam Clodius erat occisus: Milo dedit quem in curia cremaretis: dabit, quem in Capitolio sepeliatis. In eadem contione idem dixerat—habuit enim eam a. d. VIII Kal. Febr.—cum Milo pridie, id est VIIII Kal. Febr., venire ad Pompeium in hortis eius voluisset, Pompeium ei per hominem propinquum misisse nuntium, ne ad se veniret. Prius etiam quam Pompeius III consul crearetur, tres tribuni, Q. Pompeius Rufus, C. Sallustius Crispus, T. Munatius Plancus, cum quotidianis contionibus suis magnam invidiam Miloni propter occisum Clodium excitarent, produxerant ad populum Cn. Pompeium et ab eo quaesierant, num ad eum delatum esset illius quoque rei indicium, suae vitae insidiari Milonem. Responderat Pompeius: Licinium quendam de plebe sacrificulum, qui solitus esset familias purgare, ad se detulisse servos quosdam Milonis itemque libertos comparatos esse ad caedem suam, nomina quoque servorum edidisse; se ad Milonem misisse, ut eos in potestate sua haberet; a Milone responsum esse, ex iis servis quos nominasset partim neminem se unquam habuisse, partim manumisisse; dein, cum Licinium apud se haberet, ...Lucium quendam de plebe ad corrumpendum indicem venisse; qua re cognita in vincla eum publica esse coniectum. Decreverat enim senatus ut cum interrege et tribunis plebis Pompeius daret operam, ne quid res publica detrimenti caperet. Ob has suspiciones Pompeius in superioribus hortis se continuerat; deinde ex S. C. dilectu per Italiam habito cum redisset, venientem ad se Milonem unum omnium non admiserat. Item cum 52 senatus in porticu Pompeii haberetur, ut Pompeius posset interesse, unum eum excuti prius quam in senatum intraret iusserat. Hae sunt suspiciones quas se Cicero dicit pertimescere.

(§ 71.) Quid enim minus illo dignum quam cogere, ut vos eum condemnetis, in quem animadvertere ipse et more maiorum et suo iure posset? sed praesidio esse et cetera.

Idem T. Munatius Plancus, ut saepe diximus, post audita et obsignata testium verba dimissosque interim iudices vocata contione cohortatus erat populum, ut clusis tabernis postero die ad iudicium adesset nec pateretur elabi Milonem.

(§ 87.) Incidebantur iam domi leges, quae nos servis nostris addicerent.

Significasse iam puto nos fuisse inter leges P. Clodi, quas ferre proposuerat, eam quoque, qua libertini, qui non plus quam in IIII tribubus suffragium ferebant, possent in rusticis quoque tribubus, quae propriae ingenuorum sunt, ferre.

(§ 88.) Senatus, credo, praetorem eum circumscripsisset. Ne cum solebat quidem id facere, in privato eodem hoc aliquid profecerat.

Significat id tempus quo P. Clodius, cum adhuc quaestor designatus
53 esset, deprensus est, cum intrasset eo, ubi sacrificium pro populo Romano fiebat. Quod factum notatum erat gravi senatus consulto, decretumque extra ordinem de ea re iudicium fieret....

quo loco inducit loquentem Milonem cum bonarum partium hominibus de meritis suis:

(§ 95.) Plebem et infimam multitudinem, quae P. Clodio duce fortunis vestris imminebat, eam, quo tutior esset vestra vita, se fecisse commemorat ut non modo virtute flecteret, sed etiam tribus suis patrimoniis deleniret.

Puto iam supra esse dictum Milonem ex familia fuisse Papia, deinde adoptatum esse ab T. Annio, avo suo materno. Tertium patrimonium videtur significare matris; aliud enim quod fuerit, non invenio.

Peracta utrimque causa singuli quinos accusator et reus senatores, totidem equites et tribunos aerarios reiecerunt, ita ut unus et L sententias tulerint. Senatores condemnaverunt XII, absolverunt VI; equites condemnaverunt XIII, absolverunt IIII; tribuni aerarii condemnaverunt XIII, absolverunt III. Videbantur non ignorasse iudices inscio Milone initio vulneratum esse Clodium, sed compererant post quam vulneratus esset iussu Milonis occisum. Fuerunt qui crederent M. Catonis sententia eum esse absolutum; nam et bene cum re publica actum esse morte P. Clodi non dissimulaverat et studebat in petitione consulatus Miloni et reo adfuerat. Nominaverat quoque eum Cicero praesentem et testatus erat audisse eum a M. Favonio ante diem tertium
54 quam facta caedes erat, Clodium dixisse periturum esse eo triduo Milonem .... Sed Milonis quoque notam audaciam removeri a re publica utile visum est. Scire tamen nemo umquam potuit, utram sententiam tulisset. Damnatum autem opera maxime Appi Claudi pronuntiatum est. Milo postero die nova lege factus reus ambitus apud Manlium Torquatum absens damnatus est. Illa quoque lege accusator fuit eius Appius Claudius, et cum ei praemium lege daretur, negavit se eo uti. Subscripserunt ei in ambitus iudicio P. Valerius Leo et Cn. Domitius Cn. f. Post paucos dies quoque Milo apud M. Favonium quaesitorem de sodaliciis damnatus est accusante P. Fulvio Nerato, cui e lege praemium datum est. Deinde apud L. Fabium quaesitorem iterum absens damnatus est de vi: accusavit L. Cornificius et *Q. Patulcius. Milo* in exilium Massiliam intra paucissimos dies pro-

fectus est. Bona eius propter aeris alieni magnitudinem semuncia venierunt.

Post Milonem eadem lege Pompeia primus est accusatus M. Saufeius M. f., qui dux fuerat in expugnanda taberna Bovillis et Clodio occidendo. Accusaverunt eum L. Cassius, L. Fulcinius C. f., C. Valerius; defenderunt M. Cicero, M. Caelius, obtinueruntque ut una sententia absolveretur. Condemnaverunt senatores X, absolverunt VIII; condemnaverunt equites Romani VIIII, absolverunt VIII; sed ex tribunis aerariis X absolverunt, VI damnaverunt: manifestumque odium Clodi saluti Saufeio fuit, cum eius vel peior causa quam Milonis fuisset, quod aperte 55
dux fuerat expugnandae tabernae. Repetitus deinde post paucos dies apud . Considium quaesitorem est lege Plautia de vi, subscriptione ea quod loca publica occupasset et cum telo fuisset; nam dux fuerat operarum Milonis. Accusaverunt C. Fidius, Cn. Aponius Cn. f., M. Seius . . . . Sex. f.; defenderunt M. Cicero, M. Terentius Varro Gibba. Absolutus est sententiis plenius quam prius: graves habuit XVIIII, absolutorias duas et XXX; sed e contrario hoc ac priore iudicio accidit: equites enim ac senatores eum absolverunt, tribuni aerarii damnaverunt.

Sex. autem Clodius, quo auctore corpus Clodi in curiam illatum fuit, accusantibus C. Caesennio Philone, M. Alfidio, defendente T. Flacconio, magno consensu damnatus est, sententiis sex et XL; absolutorias quinque omnino habuit, duas senatorum, tres equitum.

Multi praeterea et praesentes et cum citati non respondissent damnati sunt: ex quibus maxima pars fuit Clodianorum.

APPENDIX B.

ANALYSIS OF THE STRUCTURE OF THE SPEECH.

In reading the ancient orators it is important to bear in mind the elaborate training, extended over many years, which every public speaker in their times received. Both the theory and the practice of oratory were imparted to pupils in the utmost detail by the ancient teachers. In Roman times at least the shadow of rhetoric lay over the whole education of the higher classes. Almost everything which a boy or a young man learned was so coloured as to contribute to his power of addressing a public audience. Not only the orators but the historians and poets were dissected and made to supply examples or warnings for the student. The most refined subtleties connected with rhetoric were ardently debated. The proper mode of defining the art, the classification of different kinds of speeches, the portions into which a speech might be divided, and their due succession in varying circumstances, the methods of stating and handling the divers issues which might be raised—all these subjects, trivial and wearisome as they may seem to us, excited

many of the brightest intellects of Greece and Rome[1]. Coming to minuter details, the student was practised in highly technical rules embracing all types of argument and all forms of expression, which it might be expedient to employ in any kind of case. His wits were sharpened by criticism of themes, oral and written, premeditated and extempore, and infinite labour was spent on the acquisition of a good delivery. Cicero himself studied rhetoric and oratory in all their minutiae, during almost the whole of his life. His rhetorical treatises and speeches were a store for later writers, and particularly Quintilian. They made larger drafts on the speech for Milo than on any other of Cicero's orations[2]. It contains indeed hardly a clause which has not been consciously framed with the precepts of the art rhetorical in view. My space, however, forbids that attention should be drawn to more than a few of the most prominent proofs which it affords of the orator's capacity.

In a defensive speech, the most important thing was to determine the issue on which the case was to be contested, or, as the phrase went, to determine the "condition of the case" (*status causae*, *constitutio causae*, *στάσις*). The fact that Clodius was slain in a fracas with Milo was undeniable. It only remained to justify the slaying by some means or other. Cicero chooses to argue that Clodius laid a trap for Milo and was caught in it himself. This was the line which Milo himself had followed immediately after the event[3]. Marcus Brutus, deeming the ground taken to be too low, wrote and published a speech (known to Quintilian) in which he maintained that, for freeing his country of an unendurable pest, Milo merited, not punishment, but thanks and reward[4]. Although Cicero repeatedly insists that he does not put forward this claim on his client's behalf, yet he loses no opportunity for craftily insinuating into the minds of the jury (or rather of his readers) the idea that Milo deserved to enjoy the benefit of the claim[5]. The issue raised in the speech is therefore primarily one of law rather than of fact; and yet an issue of fact is involved, for only by facts or inferences from facts can it be shown that Milo merely killed a would-be assassin[6].

The speech has three principal divisions; the proem (§§ 1—22); the main argument (§§ 23—91) and the peroration (§§ 92—105). Cicero himself carefully marks out the middle division as containing the essence of his case, by applying to it the word *causa* and to the other two divisions the phrase *extra causam*[7].

[1] Sudhaus, Pref. to Philodemi Vol. Rhet. p. xxvii. *videmus hanc de rhetorica quaestionem, quae nobis tam exilis videtur, apud veteres omni exspectatione latius patuisse et acutissima quaeque saeculorum ingenia detinuisse.*

[2] Quint. 4, 2, 35 *oratione pulcherrima*; ib. 11, 3, 47 *nobilissima*; Ascon. 42.

[3] Ascon. 34. Cf. Quint. 3, 6, 12 *nec in causa Milonis circa primas quaestiones.. iudicabo conflixisse causam, sed ubi totis viribus insidiator Clodius ideoque iure interfectus ostenditur. Et hoc est quod ante omnia constituere in animo suo debeat orator, etiam si pro causa plura dicturus est, quid maxime liquere iudici velit.*

[4] Ascon. 42; Quint. 3, 6, 93; 10, 5, 20. In 7, 1, 34 Quint. seems to intimate his agreement with Cic. against Brut.

[5] Note the comparison in § 8 of Milo with Africanus and other eminent patriots, though it is introduced ostensibly for another purpose. The idea that Milo is a public benefactor pervades §§ 80—end; cf. Quint. 4, 5, 15.

[6] Quint. 3, 11, 15.

[7] §§ 23, 92.

The proem is unusually long, and wisely so, in view of the formidable difficulties which beset the case[8]. The function of an introduction was to dispose the listener to give a favourable hearing to the arguments; to win his good will, to arouse his attention, and to make him ready to receive instruction. Cicero strives to remove four serious obstacles: (*a*) the fear caused by the presence of armed soldiers in court, (*b*) the impression that the slaying of Clodius was peculiarly atrocious in its circumstances, (*c*) the idea that the senate had prejudged the case and found Milo guilty, (*d*) the persuasion that Pompey desired a conviction. In the handling of all these points the orator exhibits supreme skill[9]. The first section of the proem (§§ 1—6) was of course written in part as a defence of the timidity which Cicero exhibited at the time of the trial. In the second section (§§ 7—11) the doctrine that killing is not always murder is enforced by appeal to history, law, mythology, and social usage. The phrases and words throughout are carefully chosen so as to instil imperceptibly the notion that Clodius was hoist with his own petard. It would be easy to find flaws in the demonstration. The Cornelian law first forbade homicide absolutely. It then condemned the lesser offence of carrying a weapon with intent to kill. Hence it is argued that the statute tacitly permits a weapon to be carried for defensive purposes, and therefore implicitly sanctions the use of that weapon in case of need[10]. The question "what illegal death can be inflicted on a plotter?" is of course sophistical. In the concluding words Cicero strikes the keynote of the whole defence: *insidiatorem interfici iure posse.* The third section (§§ 12—14) endeavours to prove that the senate had left the question of Milo's guilt entirely open. A bold contention, seeing that decrees such as the senate had passed on the death of Clodius were only adopted on rare occasions, and when public indignation was strongly aroused. The fourth point was most awkward to treat. First Cicero declares that if Pompey had wished to destroy Milo, he would have taken other means. Then we have a bitter complaint that any special commission should have been set up, but Pompey is not directly blamed. Next the bloodguiltiness of Clodius himself is depicted, and the desire which he once had even to kill Pompey is artfully pressed to the front. Pompey's motives for establishing the special court are so described as to leave the impression that they were utterly inadequate. The proem ends with flattery of the jury and the judge. Such honourable men would never have been chosen to try the case had not Pompey desired that they should pronounce upon it freely and without bias.

After the proem comes the recital of facts (διήγησις, *narratio*). The qualities required in this part of a speech are lucidity, brevity, plausibility[11]. First an enumeration is given of the points already made, and it is roundly asserted that the only question before the court

[8] Quint. 6, 5, 10 *non ante narravit quam praeiudiciis omnibus reum liberaret;* cf. 4, 2, 25.

[9] Quint. 11, 3, 47 sq. has given an admiring analysis of the opening sentence, showing how skilfully its tones vary from clause to clause.

[10] See § 10, and cf. Quint. 5, 14, 18.

[11] Quint. 4, 2, 31.

is *uter utri insidias fecerit* (§ 23). The true answer, *neither*, must have occurred to some jurymen; but Cicero cannot afford to allow that the meeting of the combatants was accidental[12]. The narrative opens with an effective description of the deadly enmity which Clodius bore to Milo, followed by references to the repeated announcements by Clodius of his intention to make an end of his foe, and in particular to a warning that he would die on or about the day of the actual encounter. Doubtless the prosecuting counsel quoted many such speeches which had fallen from Milo[13]. The events immediately preceding the battle, and the incidents of the engagement, are told rapidly and simply, and with a skill which ancient and modern critics alike have admired[14]. The narrative of the fight is of course artistically coloured and embellished[15]. It is boldly declared that Milo gave no order to his servants to put Clodius to death, and that he was not on the spot when the deed was done; but that they committed the act under the impression that their master was already killed. Yet the act was "such as every man would have desired his slaves to carry out in the like circumstances" (§ 29)[16].

The proofs proper (*πίστεις*, *argumenta*) occupy §§ 30—91. Ancient writers divided proofs into two classes, those which do not depend on oratorical skill (*πίστεις ἄτεχνοι*), and those which do (*πίστεις ἔντεχνοι*). The former consist mainly of testimony. The appeal to the testimony of the Greeks in parallel cases (§§ 80—83) and to that of the gods (§§ 83—86) belong to "unartistic proofs," according to ancient ideas. But remarkably little is said in this speech of anything which moderns would regard as evidence. We must however remember that it is not the speech which was delivered to the jury. It is a piece of literature, and deals mainly with aspects of the case which the writer judged likely to be of interest to *readers*[17]. The argumentative portion of the speech opens with a reiteration of the statement that the jury have only one question to decide, viz. *uter utri insidias fecerit* (§§ 30, 31). It closes with a picture of the ruin which would have befallen the country had Clodius lived (§§ 87—91)[18]. There are two digressions intended to meet special difficulties: (1) the allegation that Milo manumitted the slaves concerned in the homicide, merely in order that they might not give evidence against him (§§ 57—60)[19], (2) the belief that Pompey was determined to

[12] Ascon. 42.

[13] Att. 4, 3, 5 *Clodium occisum iri ab ipso Milone video, non dubitat facere, prae se fert.*

[14] Quint. 4, 2, 57 *callidissima simplicitatis* ("frankness") *imitatio.*

[15] Note § 28: *expeditus...paenulatus, insidiator;* § 29: *statim...hora undecima ...de loco superiore...partim occisi* (though only two of Milo's slaves were wounded).

[16] Quint. 7, 1, 37 *fecerunt servi Milonis neque iubente neque sciente Milone. At haec tam timida defensio detrahit auctoritatem illi qua recte dicebamus occisum. Adicietur: quod suos quisque servos in tali re facere voluisset.*

[17] No doubt Cicero on publishing his forensic speeches always omitted many details relating to evidence. In this speech only one witness on Milo's side is mentioned (§ 26); and those on the other side to whom allusion is made (§§ 46, 47) are obviously not the most important.

[18] Quint. 9, 2, 41 *mire tractat hoc Cicero pro Milone, quae facturus fuerit Clodius si praeturam invasisset.*

[19] The considerations put forward about torture here are thoroughly commonplace, and must have been wearisome to the ancient listener and reader. See quotations ap. Volkmann, *Die Rhetorik der Gr. u. Röm.* p. 141 sq. ed. 2.

procure a conviction (§§ 67—71). Putting these aside, the arguments are as follows, six in number:

(*a*) §§ 32—35. Who gained by the deed? Certainly not Milo.

(*b*) §§ 36, 37. The argument from character (*probabile ex vita*).

(*c*) §§ 38—43. The argument from opportunity; Milo could easily have found a far better moment for killing his opponent.

(*d*) §§ 44—51. Argument from the speeches of Clodius, and from his knowledge of Milo's plans.

(*e*) §§ 52—56. Argument from the place, which was favourable to Clodius, unfavourable to Milo.

(*f*) §§ 61—66. Argument from Milo's bearing immediately after the event.

(*g*) §§ 72—79. If Milo had done the deed deliberately and claimed merit for it, he would certainly have come off scot-free; is he to be punished for having done it in self-defence?

Every one of these arguments is of a type thoroughly recognised and laboriously discussed in the ancient works on rhetoric. The particular treatment which each topic received at Cicero's hands met with admiration among the ancients[20]. The least satisfactory of the six arguments is the first. The contention that Milo's real interests required that Clodius should continue alive, is excessively artificial.

The conclusion (*epilogus*, *peroratio*) always aimed principally at pathos. But the bearing of Milo all through the trial had been such that Cicero could not appeal to the jury for pity in his client's name. Rather he puts into Milo's mouth high-souled and stoical utterances, while he begs mercy on his own account, as being in a sense the cause of the impending disaster. The speech ends with an exhortation to the jury to be courageous and to vote as their conscience directs them; for thus they will best please Pompey;—a testimony this to the terror which overhung the whole trial from first to last[21]. The prevailing gloom may be the reason why we have throughout the whole oration hardly a flash of Cicero's brilliant talent for satire and caricature.

APPENDIX C.

CRITICAL NOTES ON THE TEXT.

The plan of this edition does not permit me to discuss at length the serious textual difficulties of the speech. But I have carefully weighed the evidence on which the text must rest. At many points I have refrained from mentioning disputes about readings, because the illustrations in the explanatory notes seemed to defend sufficiently the readings of the MSS. In matters orthographical I have followed what I believe to

[20] Cf. e.g. Quint. 5, 10, 37 (*locus*) *opportunus consiliis an adversus, quam partem videmus vehementissime pro Milone tractasse Ciceronem.*

[21] Cf. what Cic. himself says in *De opt. gen. orat.* § 10.

have been the usage of Cicero himself, so far as that can be ascertained by strong probabilities. Thus for example I have written *-i* not *-ii* in the genitives of nouns whose nominatives end in *ius* or *ium*; *-is* not *-es* in the accusatives plural of *i*-stems, and *vo* not *vu*, *propincus* not *propinquus*; *poenire* etc. not *punire*; *duos* not *duo*. In many cases where the indications are slighter, entire consistency is hardly attainable.

The following are the principal MSS on which the text is based:

P = a Turin palimpsest, of which only small portions are preserved. It presents a better text than any other MS.

E = Erfurtensis, of the XIIth cent., now in Berlin.

T = Tegernseensis of the XIth cent., now in Munich.

S = Salisburgensis, of the XVth cent., now in Munich.

B = Barberinus, of the XIIIth cent. This MS was known to Garatoni, and its readings have now been given by Nohl.

H = Harleianus, now in the British Museum, of the end of the XIth cent. It was formerly at Cologne, and some of its readings were reported (somewhat imperfectly) by Modius, Gulielmius and Graevius. Its whole history has been made out, and its lections have been published by Mr Clark of Queen's College, Oxford, in a valuable work which forms Part VII of the *Anecdota Oxoniensia* (Classical series). There is a gap in H between § 18, l. 5 *quae* and § 37, l. 29 *terfici* (sic).

The most important critical editions of the *Pro Milone* which have appeared in recent times are (1) that by Baiter in the edition of Cicero's complete works edited by Baiter and Halm (Zurich, 1861), (2) that by C. F. W. Müller (Teubner text, 1886), and (3) that by Nohl (Freytag series, 1892).

On the whole, editors have been guided mainly by E. Many scholars (including Madvig) have attributed high importance to those lections of H which were known to them. It has a close affinity with E, but is still more closely related to S; and HS agree more closely with P than E does. Nohl has given his opinion of H in an appendix to his revision of Richter and Eberhard's edition (Teubner annotated series, 1892). He seems to depreciate the MS somewhat unduly, on the strength of errors which it shares with other MSS, but admits that where, as is often the case, E and TBS are divided, the testimony of H is generally decisive.

I have derived much benefit from Mr Clark's excellent work, but cannot agree with him that the text of the speech is "honeycombed with glosses." Some there are, no doubt; but part of the evidence on which he relies, such as the perturbed order of words in the MSS, accompanied by a possibility of excision, is treacherous.

§ 2, l. 9 nec: MSS *non*, corr. by Garat. Madv. l. 10 quo: I have added the word, omitting *oratori* or *oratione* (given by MSS). The words *ut...iudicio* are clearly parenthetic; therefore something has fallen out which accounted for the subj. *possimus*. The expression *adferre aliquid, quo* foll. by subj. is found elsewhere; cf. Fin. 1, 72; 3, 11; Tusc. 5, 20. l. 16 iustissimi: so H; other MSS *illustrissimi*. § 3, l. 18 prae: so HE; *pro* cett., which ill suits *neglegere*. § 5, l. 29 duobus: om. by T and Garat.; Mr Clark supposes the word to have come into the text from a marginal variant on *nobis*: "*vel vobis*."

p. 27, l. 4 cunctis: perhaps *coniunctis* should be read. § 6, l. 14 sin: so HE; *sed si* STB. The latter reading is obviously derived from the former; *sin* was written *sī* then *sei*, which passed (by a very common error) to *set*, *sed*; the want of *si* was then felt and it was inserted. § 8, p. 28, l. 4: edd. have felt the awkwardness of *seditiose* with *interrogaretur*. Possibly it is an error for *invidiose* (§ 12, l. 22); or *in contione* may be erroneous for *contionante*. l. 6 responderit: *respondit* SB, but the causal nexus seems needed here. l. 12 divina HSB: *divinae* TE. § 11, l. 5 modo: om. by H, Madv. and others, but in view of the terms of the law, the word cannot be spared; it is constantly contracted and would easily fall out after *non* (*nō*). The sense is "does not *merely* forbid homicide, but forbids a man to wear a weapon for the purpose of committing homicide." Here the form *non modo...sed* seems to fulfil its ordinary function of marking the passage from a wider idea to a narrower one. Homicide is not forbidden altogether, but in certain cases only. § 14, l. 13 nisi vero aut etc.: the text of the sentence is dubious. H omits *in* before *quo* (given by other MSS); rightly, according to Cicero's usage. All MSS give *non* before *etiam si*, as well as before *arma*. H omits *quo* before *arma* and is followed by Madv.; but *arma* thus becomes subject to *volnerarunt*, and the arms of S. cannot well form an ex. of *defensio contra vim*. All edd. excepting Eberhard have construed *e re p.* with *oppressa sunt*; but *etiam si e re p.* clearly form a parenthesis (see expl. n.). Mr Clark with H omits *e*; but Cic. would hardly write *re p. oppressa sunt*. § 15, l. 2 at patet: so S; *apparet* HT; *at apparet* E; *at paret* Scholiasta Bobiensis and edd. I have found no ex. of *paret* applied to *criminal* matters. l. 11 interitum: after this Lehmann needlessly inserts *puniendum*; but cf. § 31, l. 28 *de iure non de facto quaestionem*. § 17, l. 30 est interf.: so Madv.; *sit interf.* MSS; it is more probable that they are wrong than that Cic. introduced virtual *oratio obliqua* at this point. § 23, p. 34, l. 4: I have placed the comma before *argumentis*, which seems to belong to *expono* rather than to *perspicere*. § 24, l. 7 anno superiore: possibly a gloss. § 27, l. 4: E has *id* before *scire*, T before *difficile*; both give *a lanuvinis* after *scire* and this has caused the intrusion of *id*. l. 7 quod... Milo: often ejected as a gloss. ib. Lanuvi Müll., wrongly, I think: see explan. n. § 28, l. 15: it is probable that here and in § 41, l. 22 and § 65, l. 13 *deinde* should be written for *dein*. Although *deinde* is given by our MSS in Cicero's speeches alone about 400 times, yet *dein* occurs in only about six places with good support; viz. these three, and three others. It is more likely that the MSS are wrong (especially as *deinde* is greatly subject to contraction) than that Cic. should have thus oddly varied his usage. § 29, l. 30 quod putarent: Madv. *qui p.* or *quum p.* "*ut appareret subiunctivi causa.*" ib. incipiunt: probably inserted by copyists. Had Cic. himself employed the word, he would have written rather *partim recurrere incipiunt, partim caedere*. § 30, l. 14 etiam beluis: so P; om. cett. § 31, p. 37, l. 2 ut: P only; *tum* cett., also adding *nos* before *scelere*. § 32, l. 15 nec cuperent reprimere si possent: so Madv. for *nec si cup. rep. possent*. § 33, l. 28 deferre posses: for the strange history of a fragment inserted here by many edd., which turns out to belong to the speech actually delivered

by Cic., not to the one he wrote, see the crit. n. in C. F. W. Müller's ed. p. 38, l. 9 debeo: all MSS om. from *debeo* to *solutam* (l. 20), except P, which has from *fuerit* (in *interfuerit*) to *solutam*; the words from *videtis* to *inter* have been added by edd. from conj. (some give *audistis* for *videtis*). Noting the number of lines on a page of P and comparing P with other MSS, we find that five or six lines are still missing. Some indications of their contents are given in passages of late rhetoricians (see Müller's text). § 35, l. 15 iustum: *iniustum* may be the true reading. § 37, p. 40, l. 3 intentata: *intenta* H, Asc. § 39, p. 41, l. 3 fecit: *fecisset* HTS. l. 5 omnium: *omnia tum* codd.; corr. by Heumann. § 42, p. 42, l. 1 veremur: I have inserted this word, the letters of which are sufficiently like those of *rumorem* to account for its loss. SB om. *levem*; H om. both *fabulam* and *falsam*. E has *falsam fictam levem*, T *fictam falsam levem*. Mr Clark thinks *fictam* a gloss taken from *fictis fabulis* in § 8, p. 28, l. 10. But the phrase *ficta fabula* or *fictae fabulae* is common, and H is peculiarly capricious in its omissions. The chances are that the archetype of H and E agreed with E, and that *fabulam* fell out in H or some immediate predecessor of H owing to the resemblance of the word to *falsam*. The arrangement of three parallel clauses, each with its own verb, all the three verbs being of cognate meaning (here *timemus*, *perhorrescimus*, *veremur*) was a favourite one with Cic.; cf. 54, p. 46, l. 2 *irretitus...impeditus...constrictus*; Quint. 9, 3, 45. § 43, l. 10 cum: *quin* ET; *qui* HSB; corr. by Madv. l. 12 audaciae: om. by many edd.; but parallels to the gen. are easy to find, and it is quoted by Severianus. § 46, l. 9 qui id: MSS *quid*, corr. by Halm. l. 14 posset: after this MSS add *omnes scilicet Lanuvini* (H *homines s. L.*). l. 18 cuius...Romae: om. by H and Ascon., and therefore treated as a gloss by Mr Clark and Nohl. But (1) the phrasing of the clause has nothing suspicious about it; (2) Cic. would hardly, in speaking of this witness, refrain from a gibe at his former perjury; (3) the omission in the texts of Ascon. may well be due to the copyists of that writer; indeed just above *Schola* and *et idem* are omitted, and there is a similar important omission in § 95. The gap in H can only count as a coincidence, seeing how carelessly that MS often drops words. § 47, l. 32 qui: MSS give *ii* or *hi* before this. Nohl conjectures that *convicti* has fallen out after *testibus*, and Mr Clark regards *qui...rediturum* as gloss. § 49, l. 22 noctu...loco: the words are in HS (both giving *occidisset* twice, after *noctu* and *loco*, and H inserting *nemo...credidisset* after *occidisset* in both places), but absent from TE. In the next sent. *neganti* and *hoc crimen* are more appropriate after mention of a murder, than after mention of a mere ambush. § 50, l. 26 tum: so HTE, *dum* S, *denique* B; *cum* Müller (aft. Ernesti). l. 27 ibi: om. by HS[1]; present in E; TS[2]B have *ubi*. The right reading may be *deinde ibidem*; see my n. on Academ. 2, 44. § 56, l. 23 ipse: this I have given for *ille*, which most editors have found difficult. The interchange of *ipse* and *ille* is frequent in MSS; H has *ipsum* for *illum* just before. l. 26 propositam et: possibly *propositis* should be read. § 57, l. 3 indicaretur: possibly an impersonal verb, but *indicarent* may be the true

reading, though it has little MSS support. l. 10 id agamus: Mommsen ingeniously conjectured *indagamus*. l. 11 id may be an intrusion, developed from the *i* of *si*. § 59, p. 48, l. 3 qui proxime ad deos: I have inserted *qui*, which may have been driven out by the intrusion of *Clodius* as subject to *accessit* (so ETBS). I have also inserted *ad*, for, although the word is omitted in quotation by Priscian and Arusianus, the construction *accedere aliquem* (even with *proxime*) appears to be non-Ciceronian. It is indeed rare everywhere (not in Caes. Nep. Verg. Hor. Tac., prob. not in Liv., once in Sall. Iug. 97). Cf. Pro Ligar. 38 *ad deos proxime accedunt* and Pro Rabir. perd. 2. 5 *proxime ad deorum immortalium numen accedit*. The combination of *proxime ad* with *accedere* is found in many passages of Cicero's writings, and also elsewhere. § 62, l. 11 imperitorum: *intimorum* Hedicke, foll. by Eberhard; Müller approves. § 63, l. 13 perdito: *percito* many edd. (Müller tacitly) from margin of S. The word occurs in the old drama and in Sall. Liv. but not in Cic. Caes. Nep. Verg. Hor. and many other writers. There is an ex. in Bell. Afr. 46 *ira percitus*; cf. Lucr. 3, 303 *irae fax subdita percit*. § 64, l. 29 quemvis: *quamvis* H, which leads Mr Clark to favour *quamvis...conscientiam* found in some early edd. Cic. may have written *mediocri* not *mediocrium*. l. 33 frenorum: many corrections have been proposed, such as *ferramentorum*, *soliferreorum*, *sparorum* (in one inferior MS). § 67, l. 2 cum tamen: "and yet all the while"; these words have often been needlessly changed; cf. e.g. Verr. 2, 5, 74. ib. Miloni: so Wolff, Lehmann (see Müller's crit. n.); *Milo* MSS. An expression parallel in meaning to *timemus* is certainly needed, so that *metuitur Milo* gives a wrong sense. Lehm. also suggested *metuit...Milo*. § 68, l. 2 ante testaretur: so H, and *aṅ testaretur* in E is the same; *attestaretur* B; other MSS *antestaretur*, which occurs nowhere else in non-legal literature excepting in Hor. sat. 1, 9, 76. *Antestaretur* cannot, as has been supposed, bear the same sense with *ante t*. § 69, l. 4 amicitiis HE; *amicis* cett. § 70, l. 18 vi: H only; *vel* cett. § 74, l. 26 *iniustis vindiciis ac sacramentis*: these words seem to have crept into the text from a marginal comment by some antiquarian, who supposed that claims to land always involved *sacramentum*, which was very far from being the case in Cicero's time. The phrase *iniustum sacramentum* only occurs elsewhere in Pro Dom. 78 where it should be changed to *iustum*, since *in libertatem* there is "against freedom." The phrase ought to mean "a suit by *sacramentum* which has been pronounced by the court to be *iniustum*," but that sense is inapplicable here, and if the words are to stand, *iniustis* must be taken in a moral sense. Cic. only uses *vindiciae* in two other passages, Verr. 2, 1, 115 and Rep. 3, 44. p. 54, l. 4 harenam: so H only; *arma* cett.; but Cic. cannot have used the word in the sense of "tools," nor would he have mixed up the mention of weapons with that of building materials. § 77, p. 55, l. 3 manerent: even the authority of HE cannot induce me to believe that Cic. wrote *maneret* here.

§ 79, l. 31 ut ea...videmus: the reading of H, *ut ea cernamus quae non videmus* (accepted by Mr Clark, but regarded by Madv. Opusc. p. 643 ed. 2 as one of the *sua et propria menda* of the

MS), seems to me to have come about by the change of *cernimus* to *cernamus* through the influence of *ut*, and the insertion of *non* to make sense. The drift of the passage is "our imaginations contemplate the objects they desire to contemplate, just as we discern those objects which we see," i.e. the internal vision is as clear as the external. I see no reason for calling this "pleonastic and otiose"; in speaking of external vision Cic. uses two verbs (*cernimus, videmus*) instead of repeating one verb twice; some exx. of the change from *cernere* to *videre* to avoid repetition will be found in my n. on Academ. 2, 80. That *cernere* is to be naturally understood of *mental* vision (as Mr Clark says) can hardly be substantiated; see e.g. Fam. 10, 19; Tusc. 1, 46. § 82, l. 12 quod: *cum* E and some edd. § 85, l. 16 quae: so HE; *quae cum* TB; *cum* S. l. 23 irae: so edd.; om. H; *arae* cett. § 88, p. 60, l. 6 hoc should prob. be omitted. § 90, l. 21 quo quid etc.: Müller may be right in his suggestion that the stop should be removed after *vidimus* and *quam* inserted. For the double constr. of comparison, the ablat. and then *quam*, see my n. on Academ. 1, 45. § 91, l. 32 a mortuis: *ab inferis* HS. § 94, l. 3 et cog.: so P. and Quint.; *cog.* H; *o cog.* cett. § 98, l. 14 meis: so HS; *suis* cett.; *tuis* Lambinus, favoured by Müll.; *cunctis* Halm. § 99, l. 25 ista: so H; *illa* cett., which may very possibly be right. § 102, p. 65, l. 3 gentibus: after this word the MSS go on with *non potuisse*. H has gra (=*gratia*) *ingentibus*, whence Mr Clark conjectures *gratiis digna ingentibus*, or *gratia ingenti in omnibus gentibus*. The reading in the text is Madvig's. § 103, l. 16 perhaps *ut* should be read for *utinam*.

[Remarks affecting the text will be found in the explanatory notes, pp. 94 7; 113 21; 114 15; 124 4.]

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TO THE INTRODUCTION, NOTES AND APPENDICES.

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